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JRJ
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TRANSLATION

OF

THE MINING LAW

APPLIED TO CUBA BY ROYAL DECREES OF OCTOBER 10, 1883, AND JUNE 27, 1884,

WITH

AN APPENDIX CONTAINING ALL THE PROVISIONS ISSUED TO DATE.

WAR DEPARTMENT,
DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
JUNE, 1900.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1900.

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MINING LAW OF JULY 6, 1859, AMENDED BY THAT OF MARCH 4, 1868.

CHAPTER 1.—*The objects of mining.*

ART. 1. All inorganic, metalliferous, combustible, or saline substances, calcareous phosphates, heavy spar, fluor spar, and precious stones, whether found in veins or strata, or in any other form, provided they require a well-ordered working on the surface or under the surface, are the special objects of mining.

ART. 2. The ownership of the substances mentioned in the foregoing article is vested in the State, and no one may dispose thereof without a concession from the Government, issued in its name by the governors of provinces.

ART. 3. Siliceous and calcareous mineral products, sands, clayey, magnesian, and ferruginous ground, chalk, and other substances of this character which can be used in building, agriculture, or the arts, shall continue as they have up to the present time for general use, when situated in lands of the State or of the towns, and for private use when the land is private property.

The substances included in this article are not subject to the formalities nor to the charges of this law, but they shall be under the surveillance of the administration in all that relates to the police and security of the works.

ART. 4. The working of the substances mentioned in the foregoing article shall not be consented to without the special permission of the owner, when the land is private property. But if it is to be used for pottery works, in the manufacture of crockery or porcelain, of fire brick, crystal or glass, or any other branch of the fabrile industry, the governors may grant authorization to work the same to any person requesting it, after the institution of proceedings by the same with a hearing of the owner of the land and receiving the report of a mining engineer and of the provincial council.

If the owner of the land binds himself to work the land, beginning to do so within the period fixed by the governor, which shall not be less than three months, he shall be preferred to strangers.

ART. 5. When a stranger has obtained authority to work any of the substances referred to in the two foregoing articles, he shall indemnify the owner of the estate for the value of the ground which

he may have to occupy, and one-fifth thereof in addition; and he shall also pay, in a proper case, the damage to or deterioration in value of the estate, and shall give bond to answer for subsequent losses and damages which might be caused in the future. He can not begin the works until after complying with these requisites. The authorization shall be forfeited if the concessioner should allow one year to elapse without working said substances.

ART. 6. The auriferous and stanniferous sands or other mineral products of rivers and placers may be freely utilized without the necessity of authorization or permission. Only when the workings are made in fixed establishments shall mining claims be formed, according to the third paragraph of article 13.

ART. 7. Ferruginous ground, such as ocher and red ocher, shall also be for general use. If the metallurgy of the iron requires them as prime materials, mining claims may be marked off according to the second paragraph of article 13.

CHAPTER II.—*Trial pits.*

ART. 8. Every Spaniard or foreigner may without restriction make diggings for the discovery of the minerals referred to in article 1 in any land which is not under cultivation, whether belonging to the State or to the towns, or whether of private ownership. These diggings, called trial pits, can not exceed an excavation of 2 lineal meters square and 1 meter in depth.

ART. 9. In unirrigated lands, which contain trees or vines or are used for pastures or tillage, the permission of the owner or of his representative shall be necessary before trial pits can be dug. If permission should be refused, or if two months should elapse without its being granted, the person requesting it may apply to the governor, who shall grant or refuse it after hearing the persons interested and the provincial council, and if he should consider it proper, or if it were requested by any of the parties, he shall hear a mining engineer.

ART. 10. In gardens, orchards, and any other irrigated lands the owner only can grant permission for the digging of trial pits, without further remedy or appeal.

A person who should request permission to dig trial pits, in accordance with this article or the foregoing, shall inform the mayor within whose jurisdiction it is intended to dig, for the proper purposes in due time.

ART. 11. Whenever the owner of the land should require it, the explorer shall be obliged to first give security for the indemnification of the damage which might be caused by the trial pit, according to agreement or appraisal, and he shall furthermore be liable for the payment of the losses and damages which he may subsequently cause to the estate.

When the permission to dig trial pits should have been granted by

the governor, the security or deposit for indemnities shall be given to his satisfaction.

ART. 12. No trial pits shall be dug or other mining workings made at a distance of less than 40 meters from a building, railroad, road, canal, well, water trough, or other public easement, and of 1,400 from fortifications, unless in the latter case authority is obtained from the military authority, and in other cases from the governor if public services or easements are affected, or of the owner when private buildings are in question.

CHAPTER III.—*Mining claims.*

ART. 13. The ordinary mining claim is a solid of rectangular base, 300 meters long by 200 meters wide, measured horizontally in the direction indicated by the interested person, and of an indefinite vertical depth. The surface remains the property of the owner of the land.

In mines of iron, bituminous or anthracite coal, lignite, peat, asphalt, bituminous or carbonaceous clay, sulphate of soda, and rock salt, each claim shall be 500 meters long by 300 meters wide.

In auriferous or stanniferous sands and others referred to in article 6, a claim shall include 60,000 square or superficial meters, as those of the first paragraph of this article, and may be measured either as a rectangle, a square, or a series or group of squares not less than 20 meters square, arranged with reference to each other as the claimant may determine, but without leaving intermediate spaces between the squares.

ART. 14. If there should be a belt between the two claims and an unappropriated space between three or more claims in which a rectangle may be measured, the horizontal surface of which is not less than two-thirds of a claim of the same character, and whose longer side does not exceed 300 meters in length in claims arranged according to paragraph 1 of the preceding article, and which does not exceed 500 meters in those mentioned in the second paragraph thereof, there shall be formed an incomplete claim, and it shall be granted to whosoever may solicit the same.

ART. 15. When the space which lies between two or more claims should not permit the location of an incomplete claim according to the foregoing article, it shall be considered as a surplus and shall be awarded to the owner of the oldest of the adjacent mines, or should he expressly renounce said surplus, it shall then be awarded to the owners of other adjacent mines in the order of their priority.

The surplus can not be extended, whatever its shape or form may be, to a larger area than two-thirds of a complete claim of its class; should there be an excess it shall constitute two or more surplus portions. More than one surplus can not be awarded to a mine. Should there be a greater number they shall be granted successively by order of their priority to the adjacent mines.

ART. 16. Private persons and companies may obtain the number of claims which they may consider necessary, provided more than two are not demanded in one request by an individual, four by a company, and twice this number, respectively, for the mines mentioned in the second paragraph of article 13.

They may also form at will large groups or associations of mines without prejudice to the division of their respective claims.

ART. 17. Permission for exploration may include the same number of claims, according to their class, mentioned in the preceding article.

ART. 18. The area included in a single claim can not be divided; but if the concession should be for two or more claims the latter may be separated with the approval of the governor.

ART. 19. Every individual or company may freely secure by purchase, or by other legal means, any number of mining claims before or after title to the property has been issued. But the companies acquiring the same shall in no case have more rights than their original owners, nor can they as companies demand a larger number of claims unless there should be some unappropriated land.

CHAPTER IV.—*Application for mining claims.*

ART. 20. In order to acquire the ownership of one or more mining claims, one of two methods may be employed, namely, exploration or registration. Both in explorations and registrations the priority of the application confers the preferred right to the concession and ownership. The application for exploration or registration may be filed without the consent or knowledge of the owner of the land; but work shall not be commenced without the requisites and conditions established in articles 9, 10, 11, and 12 for trial pits.

If the owners of gardens, orchards, and irrigated farms through which it may be necessary to continue the works started, should refuse permission for their extension, the governor may grant it, with the formalities prescribed in articles 25 and 26, as soon as any mineral has been discovered.

ART 21. Whosoever, with or without a trial pit, proposes to explore and examine the land, undertaking works more extensive and important than trial pits, such as shafts, tunnels, ditches, or excavations, shall file his application, in writing, with the governor of the province, requesting permission to make explorations on free lands.

Whosoever, with or without a trial pit, prefers to register one or more claims on free lands, shall file with the governor, in writing, his application for registration, stating whether or not he has discovered the mineral the working of which he proposes to carry on.

Both the explorer of a mine, as well as the register, shall attach, at the proper time, a surface plan of the claim or claims which they may have applied for.

ART. 22. The governor shall immediately decree the approval of either petition, unless there should be a better claim to the same.

The petitions shall be numbered and the day and hour of their filing shall be recorded in stub books, one for applications for explorations and another for the applications for registration, which each interested person shall sign, to whom there shall then be delivered the proper receipt, authenticated by the chief of the bureau of mines, stating the ordinal number pertaining to the application.

ART. 23. The governor shall order that the application for exploration or the registry be published within three days, with the surface plans of the same, in the list of announcements in the *Boletin Oficial*, and that they be forwarded to the mayor of the town for the posting of edicts.

ART. 24. Within sixty days after the publication of the application for exploration or the registry those who consider themselves as having a right to all or a part of the land requested, or the owners of the estate claimed, shall present to the governor their objections; after this period they shall not be considered.

The governor shall immediately inform the explorer or register of the objections, who shall reply to the same within ten days; then, within twenty days, he shall make a report to the provincial council, and all this shall be embodied in the respective proceedings, hearing also, when necessary in the opinion of the governor, and within a period not to exceed twenty days, the engineer, should the nature of the questions require it. Immediately thereafter the governor shall render the proper decision, overruling the objections presented or disallowing the exploration or registry.

These decisions shall be communicated in the usual manner to the persons making the objections and to the others interested, and shall be published in the Boletin Oficial with an account of the proceedings. From these resolutions an appeal lies within a period of thirty days to the department.

ART. 25. The governor shall grant permission to make explorations.

For this purpose he shall order that a mining engineer shall examine, verify, and, in a proper case, correct the surface plan, and in view of his report, and taking the objections, if there be any, into consideration, the governor shall render a decision within five months after the presentation of the petition of the explorer.

ART. 26. From the decision of the governor granting or denying the permission for the exploration an appeal lies to the department, which appeal must be filed within thirty days after being notified of the decision of the governor, by the person who may consider himself prejudiced, be he the petitioner or one of the objectors.

If no appeal is filed, the permission of the governor shall be final.

ART. 27. Permission to make explorations is for the time fixed by the regulations.

Before obtaining permission the explorer may make the same legal works which in the following article are fixed for a register. After

obtaining permission he shall continue his explorations according to the conditions prescribed in article 50.

ART. 28. The register shall perform, within a period of four months from the date of the presentation of his registry, the legal labor of 10 meters, either in depth by means of a shaft or horizontally by means of a tunnel, ditch, or excavation.

Every register may aspire to convert his registry into an exploration before or after concluding the legal labor. The governor shall grant said permission according to article 25.

CHAPTER V.—*Surveys and concessions of property.*

ART. 29. No survey shall be made unless it appear that some mineral included in those mentioned in articles 1, 6, and 7 has been discovered, according to the opinion of the engineer, and if in order to make said survey it is necessary for those interested to include properties of those mentioned in article 10, the consent of the governor must previously be obtained if the owner thereof should not give his consent.

ART. 30. Within four months after the filing and admission of a registry, the applicant shall ask for the survey of his claim or claims, furnishing samples of the mineral he may have found, except in case of registry by forfeiture.

The explorer who at any time may find sufficient mineral, according to the previous article, shall also furnish samples and shall request a survey.

ART. 31. The governor shall then order that an engineer make an investigation, and, if proper, the survey in the order prescribed by the regulations.

The engineer shall perform these duties within a period of four months, which the governor may extend to six months if serious obstacles should occur, which shall be reported in the proceedings.

Previous notice shall be given to the register or explorer of the time of the examination and survey of their claims, which period shall be fixed and peremptory within limits which can not exceed eight days, under the responsibility of the commissioned engineer. The owners of the adjacent mines shall also be notified, and, furthermore, the survey shall be previously announced in the Boletin Oficial.

ART. 32. If the examination should reveal the fact that the legal labor has been performed or that there is free land, and that ore has been discovered according to article 29, the engineer shall immediately survey the claim or claims according to the surface plan, securing samples of the ore and designating the points where the bounds or landmarks are to be fixed, which shall be firm, durable, and easily seen.

If the engineer should find the surface plan defective or poorly made, either on account of inaccuracy of the measurements or by the

superimposition of some part of another claim that has a better right, he shall correct it in the survey, in concurrence with the interested person, providing there can be found free land.

ART. 33. The engineers shall avail themselves of the north magnetic pole in determining directions, but shall always, when possible, determine the position of the mouth of the mine of the legal work with regard to stationary and visible objects on the land, noting their distances, and obliging the miners to constantly preserve their landmarks subsequently in the best possible condition.

ART. 34. When the examination of a registry for the purpose of survey reveals the fact that ore has not been discovered according to article 29, the governor shall declare the registry void and the land free, unless the register should have previously applied or should apply within the eight days following the examination requesting permission to make explorations on the same site. In such case the provisions of articles 25 and 28 shall be observed.

ART. 35. Complete and incomplete claims, surplus lands, boundary marks, general galleries, dumps, and scoriæ shall be surveyed in accordance with their respective conditions according to articles 13, 14, 15, 16, 17, 42, and 47.

The explorer may demand the survey of the claims he may have designated, and if he should abandon any of them he may have those surveyed which he retains in the order most convenient for him within the limits of the surface plans he may formerly have made for all. The surplus land shall remain free.

ART. 36. Within a period of thirty days after the survey the governor shall issue a decree approving or annulling the proceedings, and ordering, in the former case, that the title of ownership be issued.

ART. 37. If thirty days should have elapsed without an appeal having been taken from the resolution of the governor, he shall issue the title of ownership in the name of the Government. In said title shall be mentioned the general conditions of the law and regulations and, in a proper case, the special conditions required for the convenience of the public, in view of the nature of the mineral or the conditions of the land and of the company.

But in each case these special conditions shall previously be submitted for consideration to the Department, which shall approve them or modify them if it considers the same acceptable in their essential features.

If any of the conditions imposed should be objected to, the same claim or claims can not be granted to another company or individual except under the same conditions, unless the original claimant shall voluntarily renounce his preferred right to the same in writing.

ART. 38. After the title of ownership has been issued the governor shall order its immediate delivery to the interested person, and shall commission the respective mayor that within the precise term of two

months he shall give possession of the claim or claims to the owner thereof in the presence of the clerk or secretary of the municipal council.

ART. 39. The concessions of mining claims are for an unlimited time, while the owners comply with the conditions of this law and the special conditions contained in the title of ownership.

CHAPTER VI.—*General galleries for explorations, drainage, and transportation.*

ART. 40. Whosoever proposes to drive a tunnel or gallery in free lands may, should he consider it advisable, request the concession of a group of mining claims under the conditions of article 16. Should this not be possible, owing to said tunnel having to cross lands occupied in whole or in part by mines already granted or registered or being developed, the constructor shall be obliged to previously come to an agreement with the other persons interested.

ART. 41. The constructor shall present his petition to the governor of the province, with the plans of the proposed works signed by a mining engineer, and an authenticated copy of the agreements made with the miners then having an interest in the land, without regard to subsequent questions and for the arrangement of reciprocal advantages.

The proper publications having been made, the governor, according to article 23, shall grant, in the name of the Government, permission for the driving of general tunnels, specifying the technical and other conditions that it may be advisable to impose on the persons interested, according to the case.

After thirty days have elapsed without an appeal having been taken from the resolution granting permission to drive a general gallery the governor shall order that possession be given at the time and in the manner prescribed in article 38.

ART. 42. The constructor of a general gallery may be granted, for drainage purposes, the option of a determined number of claims selected by himself from among the free or undenounced ones on the land where his work is situated, or within a reasonable distance therefrom. These claims shall be the object of an exploration or registry according to the provisions of this law as their subterranean works advance until they are passed, with the privilege of refusing those which may be of no service to him.

ART. 43. The works of a general gallery shall follow the line or lines indicated in the concession, and if in any case the constructor should desire to change the direction thereof he shall request permission, which may be granted after proper proceedings.

ART. 44. Every owner of a mining claim is obliged to permit the passage of a general gallery. He is also obliged to respect the supports of the gallery, abstaining from extracting mineral within 2 meters of the walls of said tunnel unless he should properly strengthen said walls at his own expense.

The price for the services of drainage, ventilation, and extraction furnished by the constructor of a tunnel or gallery to any miner, whatever may be the means employed for the purpose, shall be agreed upon by mutual consent, and if an agreement can not be reached, by a valuation made by experts named by both parties and another appointed by the governor, who shall decide the question, in view of the expert report thereon, taking into account the circumstances of each case.

On his part the constructor of a general gallery can not extract more mineral than is found strictly within the line of his tunneling works, the extraction thereof being at his own expense, and if he should have found it below a surveyed claim the product shall be divided equally between the constructor of the gallery and the owner or claimant of the mine. This rule shall obtain when the private agreement shall not have included and determined all questionable points between the interested persons.

CHAPTER VII.—*Concession of dumps and scoriæ.*

ART. 45. The dumps of mines and the scoriæ from reduction works shall be objects of concessions, provided that they are abandoned.

ART. 46. The petition shall be addressed to the governor, accompanied with a statement and a plan signed by a mining engineer.

The legal labor shall consist in digging pits or shafts in different parts of the patch, having the necessary dimensions to clearly show the character and condition of the scoria or dump.

ART. 47. The plans and surveys of scoriæ and dumps shall be in the form of a polygon and rectilinear, as the petitioner may designate; but their superficial area shall not exceed the double of a claim, according to the second paragraph of article 13; that is, 300,000 square meters for one person or company.

The institution of these proceedings, the issue of titles of ownership, and the possession of dumps and scoriæ shall take place in the manner prescribed for granting registers of mining claims.

ART. 48. When a person who is not their owner shall request permission to work a mine or a surveyed claim including a dump or scoria, the owner of the scoria or dump shall be granted preference in the working thereof should he consider it proper, indicating his purpose within thirty days after receiving notice.

CHAPTER VIII.—*General mining conditions.*

ART. 49. The owners and explorers of mines shall work them according to the rules of the industry, and shall comply with the provisions for safety and police which may be fixed in the regulations.

Offenses shall be punished by fines not to exceed 100 escudos, nor 200 in cases of repetitions. Should a crime also have been committed, the punishment shall be in accordance to common law. If the

miners should find one or more workable minerals different from that which is the object of the concession or exploration, they shall inform the governor of the province of the fact for the purpose of mining statistics.

ART. 50. On taking possession of mining claims, dumps, or scoriæ and the concessions for explorations, there shall be begun in the said places regular work, which must be continued for at least one hundred and eighty-three days of the year.

Mines, dumps, or scoriæ, in order to be considered as working or in activity, shall have four laborers per claim at work during half of the year.

ART. 51. In the general tunnels or galleries it is required that a similar amount of work be performed from the date of taking possession thereof as that prescribed in the foregoing article. The persons ordinarily employed must be at least the number required for a mining claim, without prejudice to a greater number of laborers, if it should have been stipulated in the conditions of the concession.

ART. 52. It is not necessary that the working gang be distributed among all the claims included in a mining concession or exploration permit, but they may be placed where in each case the interests of the company may demand.

In the computation of the work, account shall be taken of the mechanical force employed and the labor for extraordinary drainage from unforeseen inundations.

The owners of groups of mining claims, as well as of mines and explorations, who may have two or more mining claims united shall also enjoy the right of localizing or confining their works at the point or points that may best suit them.

This right is extended to the protection and guarding of the property of one or several claims belonging to the same owner, which are segregated or separated in the same valley or mining region, the working gangs of which shall be computed and added to the point or points of localization and accumulation of labor, providing that the total number of claims segregated or separated does not amount to the component parts of the principal group of which it is the head.

ART. 53. The least amount of labor which must be performed annually on each claim, or on the corresponding point, if there should have been a concentration of work, as a proof of having had the number of laborers prescribed by law, shall be fixed by the engineers in each particular case, taking into account the nature of the land and all the other conditions that may be found in each concession.

If the miner should not be satisfied with the official declaration of the engineers he may name on his part another expert to examine and appraise the labor, and in case of disagreement the governor shall name a third, whose decision shall be final.

When the difficulty of working and utilizing the products of a mine, scoria, or dump is demonstrated, after a report of the engineer, the

governor may authorize the reduction of the working gang to half that prescribed by article 50 for a period of two years.

ART. 54. During the course of the proceedings registers may pursue their mining operations at their pleasure; but if objections should be made all work shall be suspended unless a bond be given, at the discretion of the governor.

ART. 55. Every miner shall grant permission to facilitate the ventilation of adjacent mines; he shall permit, for an indemnity, if proper, the subterranean passage of the waters of said mines in the direction of the general drainage, and shall permit on the surface of his claims the transit that may be necessary for the service of other claims.

The losses and damages caused to other mines, either by the accumulation of water in the workings, if upon notification it is not drained within the time required by the regulations, or in any other manner injurious to foreign interests within or without the mines, in workings prior to, simultaneous with, or subsequent to the extraction of minerals or zaffer, shall be indemnified by private agreement or by an appraisal by experts according to common law.

If in the above cases or in those of indemnification to the owner of the land the miner's insolvency should be legally declared, he shall be considered as an intentional offender for all legal purposes.

ART. 56. Miners may obtain the free and full use of all or part of the surface of their claims for warehouses, workshops, buddles, reduction works, slag and waste piles, roads, and other similar purposes, all within the strict requirements of their industry. If for this purpose they can not agree individually with the owners of the lands with regard to the space they propose to occupy and the price thereof, they shall petition the governor of the province for the immediate application of the law of condemnation of property, which in these cases is proper and which shall have effect within two months with the indemnities established in article 5.

If the roads must be extended or opened beyond the mining claims, they shall be subject to the general provisions governing the same.

ART. 57. Miners may freely dispose in the same manner as any other property of any rights guaranteed them by this law. There are excepted, however, the mineral products controlled by the Treasury Department, with regard to which the special orders which govern in the matter shall be observed.

ART. 58. In order to dispose of minerals it is necessary that the miner shall have obtained the title of ownership to his claims.

ART. 59. The scoriæ and dumps contained in mining claims are the property of the owners of the latter, providing they have not been granted or registered by others before their registry.

The owners of mines, tunnels, and general galleries have the use of the waters found in their works while they retain the ownership of their respective possessions. However, if they should voluntarily or

involuntarily cut off or turn aside any water destined to irrigation or to the supply of some town, the water shall be returned to its former channel and the losses and damages indemnified, with civil liability and, in a proper case, criminal liability.

ART. 60. Miners shall be considered as residents of the towns within whose boundaries their mines may be situated with regard to the use of waters, forests, grazing and pasture grounds, and other common benefits relating to their industry, subjecting themselves to the observance of the respective municipal ordinances.

ART. 61. The registers of complete or incomplete mining claims, of surplus lands, scoriæ, or dumps, and those who request the privilege of making explorations, shall deposit with the government of the province the amount of the fees which are fixed in the regulations to cover the official expenses. They shall also pay at the proper time the cost of the issue of titles of ownership.

ART. 62. Whosoever may have dug a trial pit and then abandoned it is obliged to refill the same, and may be compelled to do so by the mayor of the town or by the owner of the land.

The register or explorer who may abandon their projects shall give fifteen days' notice to the governor, and must close their shafts, under the penalty of a fine not to exceed 100 escudos.

The owner of mines who should wish to suspend work and abandon the mines shall close his shafts and inform the governor of his intention one month in advance, under the penalty of a fine not to exceed 100 escudos.

The governor shall order an engineer to examine the works of whose suspension or abandonment he has been advised, in order that he may testify or report on its condition of safety and whether the shafts are sufficiently inclosed.

ART. 63. Until the register, explorer, or owner of a mine, scoria, or dump notifies the governor of his suspension or abandonment thereof he shall remain subject to the prescriptions and charges of this law.

CHAPTER IX.—*Cancellation of proceedings, forfeiture of concessions, and procedure in new awards.*

ART. 64. Cases relating to mines, scoriæ, and dumps shall be discontinued and lapse—

First. When there are lacking any of the requisites established in this law for registers, viz:

The deposit of the amount fixed by the regulations to cover the official expenses and pay for the issue of titles of ownership.

The attachment to the registry of a surface plan.

The performance of the legal labor.

A request for a survey within the fixed period.

Second. When an action is instituted to enforce the payment of the surface tax, he should be found insolvent.

In cases relating to permission for explorations a similar method shall be employed, with the difference that the legal labor is not obligatory, but the petition for survey shall be necessary as soon as mineral may have been discovered according to articles 1, 6, 7, and 30.

Third. When any of the registers of mining claims, spaces between claims, dumps, or scoriæ, or those requesting permission to explore, should advise the governor in writing that he has abandoned his plan or purpose.

In any of the above cases the governor shall declare in the manner prescribed in the regulations that the case is closed or canceled, and that the lands of the mining claims, dumps, scoriæ, or explorations are free and may be applied for.

ART. 65. The ownership of mining claims, dumps, or scoriæ is lost and forfeited:

First. When the conditions of the concession contained in the title of ownership are not fulfilled according to this law and the regulations for its execution.

Second. When, by the lack of drainage or the poor management and performance of the works, their destruction is imminent, provided that when notified the owner does not strengthen them within the terms which may be fixed, and according to the instructions of the engineer, approved by the governor.

Third. When the surface tax prescribed in article 80 is not paid, and when action is instituted to enforce said payment, he should be found insolvent.

Fourth. By abandonment, the rules established in articles 50, 51, 52, and 53 not being observed.

Fifth. By voluntary renunciation, relinquishing the claim or claims in the manner prescribed in article 62.

Those who may have obtained permission to explore can not be dispossessed, except for some of the causes specified in this article, and according to the formalities and procedure and with the right to appeal prescribed in article 68.

Notwithstanding the foregoing provisions, mining companies which may have invested considerable capital may suspend their work for a period of two years without forfeiture, provided they justify their action with good reasons, such as the depreciation of the respective minerals, the increase of wages, or any of the causes specified in article 66. For this purpose they must address the proper petition through the governor to the secretary of the interior before the expiration of six months after suspending their work, requesting royal authority to suspend the same for two years.

When in the ordinary courts there is pending a suit between the possessor of a mine and another litigant the latter shall not lose his right to the property of the mine if he obtains a ruling granting it to him, even though the former may have made a formal abandonment

or permitted that a third person request a declaration of forfeiture thereof.

ART. 66. In the first and fourth cases of the foregoing article valid exceptions shall be war, famine, or an epidemic within a radius of 60 kilometers, fire, flood, earthquakes, and bad weather which prevents the working of the mines, and always force majeure duly proven.

ART. 67. From the decisions of the governor officially declaring pending cases discontinued and forfeited, according to article 64, the person interested may appeal to the department, in accordance with article 88, within thirty days after the notification.

Without prejudice to publishing or announcing at the proper time the forfeited proceedings, the governor shall insert every six months in the *Boletin Oficial* a list of the mining claims, dumps, or scoriæ declared for any legal cause open to registry during that period of time.

ART. 68. In the cases of article 65 the governors shall declare the forfeiture, after proceedings of investigation instituted either officially or at the instance of another by means of a registry.

These registries of mines that may have been worked in former times, or for which titles of ownership may have been acquired in recent times, shall be confined to a petition for the institution of proceedings, in order that in either of the two cases when forfeiture is declared, or if it should have been already declared, the mine be awarded to the petitioner. The latter shall attach to the registry a plan of the property, and after the forfeiture has been declared, or should it appear that it was previously declared forfeited, he shall request a survey without being required to perform the legal labor.

The former concessioner, who in consequence of such registries or by official proceedings should consider himself injured in his rights by the declaration of forfeiture, may appeal by means of administrative litigation to the provincial council within a period of thirty days after receiving notice. From the decision of the provincial council an appeal lies to the council of state within sixty days. In these suits the register may appear as a coadjutor of the administration.

When the forfeiture of a concession of a mine, dump, or scoria has been finally decreed, or permission to explore having been granted, or the closing of registry proceedings having been ordered, the governor shall declare that such lands are open to registry, announcing the same to the public. In case of a declaration of forfeiture as a result of a registry the applicant shall have the preference for the survey and subsequent possession if there should exist undenounced land.

ART. 69. If after a forfeiture has been declared it should suit the new register to use the buildings of the forfeited claim or claims, or employ the machinery that there may be thereon, he shall have the right to have them condemned according to law.

ART. 70. In claims abandoned for a period of ten years without

being registered or without being worked anew, the lands which may have been occupied for mining requirements and easements and the sites of buildings rendered unserviceable for their original purpose shall fully revert to the owner of the estate.

CHAPTER X.—*Reduction works.*

ART. 71. Every worker of minerals in stationary establishments shall enjoy the rights, have the obligations, and be subject to the indemnities referred to in chapter 8 of this law, provided that the provisions contained therein are applicable to the said workings.

ART. 72. When the worker can not agree with the owner of the land where he desires to build his reduction works, he shall apply to the governor, in order that the proceedings prescribed by the law of eminent domain being instituted, a declaration may be made as to whether or not the establishment is of public utility. From the decision of the governor either the manufacturer or the owner of the land may appeal to the department, whose decision shall be final and can not be appealed from.

ART. 73. When high or smelting furnaces or any other class of reduction works are to be established which require waterfalls, the authorization of the governor is necessary, after proceedings instituted with a hearing of the person interested, of a mining engineer of the district, of another engineer of roads, and of the provincial council.

The governor can not delay for more than six months the time for instituting and deciding the proceedings.

ART. 74. All that relates to mineral-reduction works that is not determined in this chapter shall be governed by the rules of common law applicable to other industrial works, the sanitary and police rules and regulations being observed. Consequently the damages and impairments caused to trees and sown fields by the gases, smoke, and sublimations proceeding from the furnaces of smelting works shall be indemnified by the owner of the latter.

CHAPTER XI.—*Mines reserved by the State.*

ART. 75. The following mines are reserved to the State:

The quicksilver mines of Almaden and Almadenejos.

The copper mines of Riotinto.

The lead mines of Linares and Falset.

The sulphur mines of Hellin and Benamaurel.

The graphite mines situated in the judicial districts of Marbella.

The iron mines that in Asturias and Navarra are destined to the supply of the national factories of arms and munitions.

The coal mines situated in the municipalities of Morcin and Riosa, in the province of Oviedo, assigned to the service of the establishment of Trubia.

And the salt mines actually worked in the different parts of the Kingdom.

ART. 76. The mines shall preserve the same area they now have, and the secretary of fomento, after proceedings and a hearing of the authorities whom he may deem proper to consult, shall fix in a definite and clear manner that of those whose boundaries have not as yet been fixed.

ART. 77. Within the boundaries of the mines reserved to the State no one shall dig trial pits nor make excavations, except by order and for the account of the Government.

Neither may concessions of mining claims or scoriæ be granted within the same boundaries.

The minerals not developed by the Government are excepted, provided the works be established at a distance of at least 600 meters from the mines and establishments of the State in operation.

ART. 78. The dumps and scoriæ of mines or factories reserved to the State can not be worked by individuals whatever be their distance from the mine or establishment from which they came.

ART. 79. The Government can not alienate or acquire mines or scoriæ without being authorized thereto by a special law.

CHAPTER XII.—*Taxes with regard to mining.*

ART. 80. The fixed surface tax of 30 escudos shall be paid annually on each mining claim of the dimensions mentioned in the first paragraph of article 13.

The claims of the second paragraph of the same article, even though of greater dimensions than the others, shall only pay 20 escudos.

The scoriæ and dumps shall pay an annual tax of 40 escudos for every 40,000 square meters of area.

The incomplete claims and the spaces between claims shall pay in proportion to their respective areas.

Permission for explorations shall pay 10 escudos annually for each claim.

General galleries shall pay the tax corresponding to the mining claims reserved to them by the concession from the day on which they were applied for or exploration was begun according to article 42.

The tax shall commence to be counted from the date of the survey of mining claims and from that of the concession of permission for explorations, respectively.

ART. 81. The mining claims actually granted, the incomplete claims, and the spaces between claims, and those the concession of which is pending, shall enjoy the benefits of this law, applying to them the tax according to article 80 with the corresponding discount by reason of the smaller area they may have, compared to the new claims herewith established; but those pending shall also be subject to the payment of the tax from the day on which the present regulations go into operation.

ART. 82. Mining claims of iron ore shall continue exempt, as up to the present, from the payment of an annual surface tax for a period of twenty years, counted from the publication of this law.

ART. 83. All ores or metals of whatsoever character may be exported to foreign countries, but shall pay on their leaving the Kingdom the duties fixed in the tariff law.

In the same law there shall be fixed the duties which mineral coal and other foreign mineral products are to pay when imported.

ART. 84. The custom-house duties, which in accordance with the preceding article minerals or metals are to pay on being exported from any point in the Kingdom, shall not exceed 3 per cent of their value, without any deduction of expenses of any kind. Argentiferous lead ores shall pay the exportation duties on the lead as well as on the silver which they contain. For this purpose there shall be established by the Government, in order to simplify custom-house operations, standards of the respective amount of silver for mining districts, which verification and correction by assays for its specific richness shall be performed at reasonable intervals of time. The payment of the export duties on the lead and silver in argentiferous lead ores must be made at the place where said ores leave the Kingdom, and the same is the case for other minerals and metals, computing their value by the prices they bring in the markets where produced. For this purpose those proceeding from points removed from the place of shipment or exportation shall be supplied with invoices showing their origin or value.

Those which have no invoice shall pay the duties according to the price which the mineral or metal may bring at the point of shipment or departure.

Iron ore, iron, fossil fuel and coke, calamine, zinc blende, and metal zinc are exempt from the payment of export duties for twenty years, for which period this exemption was fixed in the law of July 6, 1859.

The minerals and metals not worked or improved are exempt from any payment of duties in their circulation within the Kingdom, which shall be perfectly free.

ART. 85. The mining industry can not be charged with other special taxes aside from those here established. The metallurgical industry shall pay the industrial tax pertaining to its class and profits.

CHAPTER XIII.—*Authority and jurisdiction in mining.*

ART. 86. All proceedings instituted in order to obtain mining concessions are purely administrative. They shall be passed upon and closed by the governors.

ART. 87. The governors shall hear the provincial councils in all the cases prescribed in this law, and whenever they consider it proper, including the reports of said corporation in the proceedings.

ART. 88. Every provision or measure taken by the governors in mining matters may be administratively appealed from to the Department of the Interior by the person who considers himself prejudiced, but the appeal must be forwarded through the respective governor, who shall attach his report thereto, giving a receipt to the interested person.

Decisions declaring forfeiture according to article 68 are excepted, in which cases an administrative appeal lies to the provincial council, with an appeal to the council of state by the former concessioner.

Both appeals must be filed within the period of thirty days.

The department shall hear the superior mining technical board and the council of state when it considers it advisable, taking care that the subjects consulted, if they might lead to suits involving the Government, be heard alone by the section of the interior of the said council.

ART. 89. With reference to royal orders relating to mining, an appeal lies to the council of state by administrative litigation—

1. From the resolutions confirming or rejecting the permission or refusal of the governors to make explorations.

2. From those confirming or rejecting the decisions rendered by the governors granting or refusing the ownership of mines, scoriæ, dumps, or general galleries.

3. From those declaring the forfeiture of a concession.

ART. 90. The appeals through administrative litigation referred to in the foregoing article may be filed by those interested in the resolutions, with regard to which they have this remedy, as well as by any others who within the legal period may have presented their protests to the governors, in order that, according to articles 36 and 46, they may be united to the respective proceedings.

ART. 91. The period for taking an appeal to the council of state is limited to thirty days.

ART. 92. Whosoever may institute proceedings in mining or metallurgical matters must have a representative in the capital of the respective province. In the absence of the principal and of his agent, the publication of a ruling in the *Boletin Oficial* shall have the same legal effect as a personal notification.

ART. 93. The cognizance in administrative litigation of questions instituted between the administration and the concessioners with regard to the interpretation and fulfillment of the conditions fixed in the concession appertains to the provincial councils, an appeal lying to the council of state.

ART. 94. The ordinary courts shall take cognizance of all questions relating to mines, scoriæ, dumps, tunnels or galleries, and reduction works that may be instituted between parties with reference to ownership, profits, and debts, as well as of the ordinary crimes which may be committed in the said establishments and their dependencies.

The intervention of the ordinary courts shall not interfere with the progress of the administrative prosecution of proceedings, nor the prosecution of the works. In suits against mining establishments for debt, an attachment of all or part of the output may be ordered, and also, in a proper case, an execution on and sale of the establishments themselves; but this judicial proceeding shall not impair the workings, supports, drainage, and ventilation of the mines attached nor of the neighboring ones.

The governor of the province shall exercise a surveillance over this subject.

ART. 95. The courts competent to take cognizance of cases of fraud against the interests of the public treasury shall also have jurisdiction in those relating to fraud in the payment of mining taxes and in the shipment of minerals and metals without the proper invoice.

CHAPTER XIV.—*The corps of mining engineers.*

ART. 96. The corps of mining engineers shall continue in charge of the technical direction of the mining establishments reserved to the state, and of the scientific commissions relating to their profession, with the other attributes and obligations pertaining to the same by virtue of this law, and assigned to them in the regulations.

A subordinate corps shall assist them in their labors.

The superior technical board of mines shall make a report to the department whenever consulted with regard to the proceedings in their department and also on all that may contribute to advance and perfect the mining industry.

GENERAL PROVISIONS.

1. The working of every bituminous or anthracite coal mine shall be directed by an authorized engineer or expert, who shall care for the good order and security of the workings; in the other mines and mining establishments the owners may employ the engineers or experts whom they may choose.

Workings on a small scale for local consumption of the bituminous or anthracite coal mines are exempt from these obligations.

2. In all mines and mining establishments the Government shall exercise, by means of a corps of engineers, the surveillance or inspection necessary to enforce compliance with this law, subject to the regulations.

3. The concessions and authorizations granted according to the royal decree of 1825 and the law of 1849, with the subsequent explanations, shall continue in their actual status, provided that the conditions under which they were issued be exactly fulfilled, entering immediately on the enjoyment of all the advantages which this law extends to them, provided third persons are not prejudiced thereby.

4. The iron mines which by burdensome concessions belong to in-

dividuals and those which up to the present have been freely utilized and are being worked shall continue in the same condition, without a registry or exploration, according to this law, being required.

5. All the periods of time which are fixed in this law shall begin to be counted from the day following that of the administrative notification, that of the citation or publication in the *Boletines Oficiales*, or that of the insertion in the same of the resolutions of authorities as will be specified in the regulations.

Temporary Provisions.

1. The individuals or companies which may have obtained the property of mining claims according to the foregoing law may acquire a larger number of contiguous claims in free land, petitioning for the same as provided in article 16.

2. The proceedings pending on the publication of this law shall be concluded according to the procedure established therein as the shortest and most expeditious, unless the interested persons should declare in writing to the respective governors that they prefer the former procedure, within sixty days of the publication of this law.

Final Provision.

All laws, instructions, and regulations relating to mining prior to the publication of this law are hereby repealed.

The Government shall publish as soon as possible the regulations necessary for its enforcement and exact execution.

Therefore, we order, etc.

Given in the Palace on July 6, 1859.

REGULATIONS FOR THE EXECUTION OF THE LAW OF MINES OF JULY 6, 1859, AMENDED BY THAT OF MARCH 4, 1868.

ROYAL DECREE.

In view of the reasons submitted to me by the secretary of the interior, and after hearing the full council of state,

I hereby approve the annexed regulations for the execution of the law of mines of July 6, 1859, amended by that of March 4 last.

Given at the Palace on June 24, 1868.

Rubricated by the Royal hand.

SEVERO CATALINA,
Secretary of the Interior.

CHAPTER I.—*Objects of mining.*

ART. 1. The special objects of the mining industry are all the substances mentioned in article 10 of the law, whether found in veins, strata, pockets, or in any other form, providing that their working and profit require well-ordered workings on the surface or under the surface, according to the conditions of the industry.

ART. 2. When in petitions for mining concessions the substances to which reference is made in article 10 of the law are confounded with those mentioned in article 30, the governors shall, on the presentation of the petition, take the proper steps in order that, being drafted in explicit terms and according to the nature of the substance to be worked, the procedure prescribed in the law for the different cases referred to in articles 1 and 3 may be observed.

If, after the expert report has been received, there should arise any reasonable doubt as to the nature of the substance which it is proposed to develop, or when the respective owners of the land should raise doubts before the expiration of the period fixed for the admission of objections to the mining petitions included in article 1 of the law, and before the survey with regard to petitions for mineral products mentioned in article 3, the governors shall suspend the course of the respective proceedings and shall immediately inform the department of the interior, requesting the proper decision in view of the reports of the technical mining board and of the section of Government and of the interior of the council of state.

These decisions shall be final, from which there shall be no subsequent appeal. They shall be published in the *Gaceta* and shall serve as precedents for future cases.

ART. 3. The mineral productions mentioned in article 3 of the law shall be of free utilization if the owner of the land consent thereto, and among which shall be considered as included steatite, commonly known as tailor's chalk, even in cases applying to potter's productions, the making of crockery or porcelain and fire brick, crystal or glass, or any other branch of the fabrile industry; and only for these purposes, when the owner should refuse his consent, may the governor grant authority to develop the same, after the institution of proceedings in the manner and with the formalities the law prescribes in article 4.

For the purposes of the said article of the law and of the following one, by development shall be understood the extraction and alienation or assignment of the mineral products to which they refer, even though the owner of the lands, or the concessioner in a proper case, should be neither the industrials nor the manufacturers who immediately apply them to the uses indicated in the preceding paragraph.

ART. 4. The proceedings instituted in order to grant authority to develop the mineral products named and indicated in article 3 of the law shall commence with the petition presented by the interested person, drafted in accordance with the formula contained in Form No. 1.

The governor shall order that the proper notice be given to the owner of the land, in order that he may, as such owner, within a period of fifteen days, set forth the reasons for refusing permission for the development, or state whether he binds himself to do so on his own account.

In the latter case, the governor shall at once fix a period within which the owner of the land must commence the development, which shall not be less than three nor more than six months. During the period which may be fixed the petition for authorization shall remain in suspense.

If the owner of the land within a period of fifteen days should not state anything with regard to binding himself to make the development on his own account, it shall be considered that he renounces his right to do so; and in such case, as well as in the case of his refusing to develop the land of his property, with a statement of the reasons on which he bases his refusal to consent to the development by a third person, and also in the event that he should have allowed the period fixed, according to the provisions of the foregoing article to elapse, without commencing the work of development, the proceedings shall continue, hearing the opinion of the engineer of mines and that of the provincial council, and the governor shall render a decision granting or refusing the authorization.

An appeal from this decision lies to the department of the interior (ministerio de fomento) within a period of thirty days.

ART. 5. When the concession of authorization is executed, the governor of the province shall take the proper steps in order that the lands to be occupied be immediately appraised and that their owner be at once paid the appraised value of the land and one-fifth more, and that the bond referred to in article 5 of the law be given.

The appraisal shall be made by experts appointed by the persons interested and in case of disagreement by a third, appointed by the governor when the others are appointed by the former. For this purpose due notice shall be given to said official of the appointments made, and the latter shall notify them immediately of the appointment of the third one.

The bond shall be fixed by the governor after hearing the provincial council.

ART. 6. The indemnity having been paid and the bond referred to in article 5 of these regulations having been filed, the governor shall order, without the slightest delay, that the land be surveyed by the proper engineer.

The land surveyed, which shall never include more than 20,000 square meters, shall have within these limits the area that the petitioner may request, and the shape he may desire to give to it, providing that it be polygonal and with the least possible number of sides. A rectangular parallelogram shall be considered the most perfect and preferable.

The engineer shall prepare two topographical plans of the land that is to be developed, one of which shall be included in the proceedings and the other shall be delivered to the person interested. These plans shall be prepared with the greatest possible exactness, and they must show the limits of the ground granted for development, fixing the starting point, which must be so situated as to determine in a convenient and invariable manner its true situation and to recognize it always without doubt or confusion.

If, when the land is surveyed, there should result some differences in the land included in its perimeter and that which was the object of the appraisal, indemnity, and bond, the appraisal shall be corrected by the same experts if possible, or otherwise by others, selected in the same manner as the former ones. Until the corrections have been made, and the payments also, if the concessioner should make any, or until the amount thereof has been deposited in the manner established in the following article, work can not be commenced.

ART. 7. When any of the parties fails to appoint an expert, the governor shall do so in his default.

The survey shall not be suspended, nor shall obstacles be placed in the way of the labors necessary for the development, by reason of the disagreement of the interested parties with the appraisals of the two experts, or with that of a third, in case of the disagreement of the other two.

When this occurs the individual to whom the authorization to develop has been granted shall deposit in the general treasury or in its subdepositories the appraised value of the indemnities, with the increase to which reference is made in article 5 of the law, the payment of the amounts which correspond to the indemnities being reserved until the appeals entered by the parties have been decided in due form, in accordance with the provisions contained in article 84 of these regulations.

ART. 8. The forfeiture of the authorization, if the concessioner should allow one year to elapse without developing the substances referred to in articles 3 and 4 of the law in order to comply with article 5, shall be officially declared or at the instance of a party by the governor of the province. There shall be considered as parties

for the purpose of requesting a declaration of forfeiture the owner of the land, as well as any other interested persons who, with his consent or without it, desire to develop said substances in the same site or place.

From the declarations which may be made by the governor in proceedings for forfeiture of authorization an appeal lies to the department of the interior; but against this resolution of the Government, in which shall be first heard the proper section of the council of state, there is no subsequent remedy.

ART. 9. Proceedings for permission to work auriferous and stanniferous sands or other mineral products of the rivers and placers, when they are to be worked in fixed establishments and form mining claims, may be instituted without the construction of the reduction works being required before the petition is made, it being sufficient that the works be commenced within a period of one month, counted from the date on which said petition was presented.

Nevertheless, the concession can not be granted, neither can the proceedings be definitely approved, until it is proven within the period fixed by the governor in each case that the reduction works have been concluded, or at least ready to begin their labors.

ART. 10. In cases where the treatment of iron demands as prime material the ferruginous earths referred to in article 7 of the law, the proceedings shall be instituted immediately as all others in which a concession or mining claim is desired without it being necessary to prove the existence of fixed reduction works, nor that the explorers built them, being considered in this case under similar conditions as mines where the substances enumerated in article 1 of the law are found.

CHAPTER II.—*Trial pits.*

ART. 11. The privilege of making diggings, called trial pits, in order to discover minerals, granted by article 8 of the law, when the lands should not be destined to cultivation, shall be extended under similar conditions to the lands described whether they belong to the State or to the towns or are private property.

ART. 12. The petitions which may be presented to the governor of the province in cases in which authorization is desired to dig trial pits in nonirrigated lands containing trees or vineyards, or which are destined to pasture or tillage, when the owner or his representative has refused his consent, or two months should have passed without granting it, immediate notice shall be given to the owner and a period of fifteen days shall be granted him in which to state the reasons for his refusal or silence. When this period shall have elapsed without any reply it shall be considered that he renounces his right to be heard granted him by article 9 of the law. The petitions shall be drafted according to Form No. 1, with the proper changes.

ART. 13. From the decision of the governor of the province refusing to grant authority to dig trial pits, which are referred to in article 9 of the law, an appeal lies through the said authority to the Department of the Interior; but the decision of the latter shall be final, without further remedy.

ART. 14. Those who request permission of the owner of the land to dig trial pits, in the cases referred to in articles 9 and 10 of the law, shall inform the mayor within whose district the trial pit is situated. The mayor shall make a memorandum in writing on said communication of the date of its presentation, clearly written out, and shall deliver to the person interested who signed it, or to his legal and accredited representative, a receipt, which shall be proof of the proper notice having been given to the local authority.

ART. 15. In order to obtain a mining property or concession, in no case can priority be alleged which is based on the dates of the petitions to dig trial pits or on the dates of their presentation or on the evidence of witnesses, or of any other character with which it is attempted to prove the time when the trial pit was dug, even though lands in which exploration is declared free by the law should be in question.

ART. 16. The owners of lands, whether uncultivated or not irrigated, which contain trees or vineyards, or are destined to pasture or tillage, whether used as gardens, orchards, or any other irrigated estate, shall always have the right to demand of the explorer that he first give a bond to cover any indemnity for damage which the trial pit may occasion.

The indemnity, when not determined by mutual agreement, shall be fixed by experts named by the parties, and, in case of disagreement, by a third named by the governor of the province at the time the interested persons appoint their experts. For this purpose they shall give due notice to said authority of the appointment made and the latter shall immediately notify them of the appointment of the referee.

When the parties can not agree on the bond that is to guarantee the indemnities, the governor, after hearing the provincial council, shall determine the amount thereof.

He shall hear the provincial council, also, to fix the bond when the lack of consent or the refusal of the owner to dig trial pits on his land, of the character mentioned in article 9 of the law, is supplied by the permission of the governor of the province.

ART. 17. If the parties interested in the case referred to in the foregoing article should not agree to the appraisement of the indemnity, the proceedings shall be by analogy according to the provisions contained in article 7 of these regulations, with regard to the authorization to develop mineral substances referred to in article 3 of the law.

ART. 18. The distances of 40 and 1,400 meters required by article 12 of the law to dig trial pits or make other mining workings in the

case and under the circumstances therein mentioned shall be measured in buildings from the outer walls or fences; in railways, from the lower line of the embankment, from the upper line of the cuts, and from the outside line of the side ditches, and, in the absence of any of these, from a line drawn 1½ meters from the outside rail of the road; in wagon roads, in the same manner as for railways, with the difference that in the absence of side ditches the measurements shall be from a line drawn 1 meter from the beaten road; in canals, from the outside line of the towpath; in fountains, from the outside part of the basin, should there be one, or from the place where the waters are deposited; in watering troughs and other public easements, from the outside line nearest the mining works; and, finally, in fortified places, from the defensive works which are most advanced and nearest to the site in which the mining works are to be carried on.

ART. 19. The concession for the development of mining substances are in perpetuity, an annual surface tax for each hectarea being paid, fixed in the following manner:

For the substances of the second section, 2 escudos; for metalliferous substances, excepting iron, and for precious stones, 15 escudos; for combustible substances, iron, and others of the third section, 5 escudos.

The tax must be paid from the date on which the concession is granted. While the owner of the mine pays punctually said amount the administration can not deprive him of the land granted, no matter to what extent he develops the same.

CHAPTER III.—*Mining claims.*

ART. 20. The engineers who visit mining centers where mines are worked and those who make surveys shall take care to examine if between the claims already granted by the State there are bands or spaces unappropriated not of sufficient area to form claims according to articles 13 and 14 of the law; and in either case, and whenever by other means they have knowledge of such facts, they shall advise the governor of the province thereof. The governor, considering the lands as a surplus, according to article 15 of said law, within a period of thirty days, counted from the date on which he received the report of the engineers, shall begin to institute proceedings for award. The report shall be accompanied with a topographical plan of the claims between which lie the unclaimed bands or spaces not large enough to form incomplete claims; and in view thereof the governor shall order that the owner of the oldest adjacent mines be notified in order that he may declare whether he accepts or not the land which can be awarded to him as a surplus. In this case, as well as when the land exceeds two-thirds of a complete claim of its class, the notification requesting a statement of the acceptance or refusal of the surplus shall be sent to the other adjacent towns, being published also in the *Boletin Oficial.*

Objections shall be presented within a period of sixty days, and both the owner of the oldest mine, as well as the others who by order of priority may have a right to the award of all or a part of the surplus, within the same period shall notify the governor whether they renounce or accept the same. After the time fixed shall have passed, their silence shall be interpreted as proof of their acceptance.

The sixty days having elapsed, the governor, without any postponement of any kind whatsoever, shall order the survey, and when this has been done he shall issue an order approving the proceedings or declaring the same null and void, if proper; and shall order in the former case that the title of ownership to the surplus be issued, the provisions relating to mining claims being observed in all that is not specially determined in this article.

Notice shall be given of the receipt of the reports and plans which the engineers forward for the purposes of this article, the date of their presentation being noted in the offices of the governor of the province in the same manner as the presentation of petitions. From this date shall be counted the period of the thirty days required by the first paragraph.

ART. 21. The owners of the mines adjacent to the surplus lands may also request the award of the same, subjecting themselves to the order of preference fixed by the law; but they shall not be granted unless preceded by an examination and report of the proper engineer and the formation of the topographical plan to which reference is made in the foregoing article.

As soon as the petition is presented the governor shall order that the engineers make an examination, prepare the topographical plan of the claims between which are situated the unappropriated bands or spaces, and make a report within a period of six months, counted from the date on which they acknowledge the receipt of the order of said authority.

When these formalities have been complied with the proper notifications shall be given, and the proceedings shall follow the regular steps, subject to the rules prescribed in article 20 for official awards.

ART. 23. Each set of the proceedings instituted with reference to mines can embrace only the number of claims that a single petition can contain according to the cases referred to in article 16 of the law. The only exceptions are the petitions of mining groups, which may be made in the manner designated in article 42 of these regulations. To the petitions made in the name of general or special partnerships and corporations, and also of special mining companies when found legally established, shall be attached the articles of partnership or corporation or a certified copy thereof, proving its social existence.

The governors shall refuse the admission of all petitions made in the name of two or more individuals when they do not prove that they have formed a partnership in a legal manner.

ART. 24. If the application for ownership should relate to a deposit or patch of turf that does not reach the size of an incomplete claim of its class, a plan thereof may be made in the form of a rectangle, inclosing or including the deposit. The concession shall be limited to this place, there being observed in its grant the prescriptions issued for others of its kind.

When it is proposed to develop various small patches of turf they shall be requested and indicated in one petition for application for ownership, all those existing in the space of four contiguous claims of the dimensions mentioned in the second paragraph of article 13 of the law, or in double that space if a company should claim it, without prejudice to the survey of each patch by itself when proper, forming a rectangle large enough to inclose or surround it entirely.

In the topographical plan each patch shall be distinctly marked according to its situation, and in the act of examination and survey its superficial area shall be mentioned, as also the number of square meters of all the patches which are the object of the concession. This shall be limited to the spaces surveyed, and the concessioners shall pay the surface tax corresponding to the said spaces according to the second, fourth, and seventh paragraphs of article 8 of the law.

In order to consider these concessions as duly worked it will be sufficient that they have the number of laborers corresponding to the spaces of one or more claims originally designated, the intermediate spaces remaining free for mining claims of other kinds.

ART. 25. In order to separate two or more mining claims that have been the object of one concession, the proper proceedings shall be instituted, commencing with the petitions of the persons interested, then hearing the proper mining engineer, and the governor then deciding as he may deem proper. If approval should be refused, an appeal lies to the interior department within a period of thirty days. If the refusal be confirmed by the department, a new petition for the separation of the claims can not be made unless the causes for the refusal should be modified either by subsequent developments or by other reasons that shall be weighed in each case according to the attendant circumstances.

Care must be taken in these proceedings that the separated claims be given a name that will distinguish them from the original concession to which they belonged, and the proper advice shall be given to the administration of the public treasury for the proper effects relating to the surface tax.

ART. 26. When individuals or associations acquire by purchase or in any other legal manner any number of mining claims already granted by the State, they shall notify the governor of the province within fifteen days after their acquisition.

If the purchasing companies should desire the increase of claims which the law allows, because of the existence of unclaimed land, the

proceedings shall be instituted and carried on in the manner established as a general rule for applications for ownership and ordinary concessions.

When individuals or companies, in the manner indicated in the first paragraph of this article, should acquire mining claims not yet granted, the applications by others for which are pending, they shall inform the governors of the provinces as soon as possible of the purchase or transfer, exhibiting the public instrument proving the same, and stating their desire that the respective proceedings continue in the name and representation of the individuals or companies. Until this is done said authorities shall continue the prosecution of the proceedings, recognizing as the only legitimate party the one who instituted and continued the proceedings, without a sale or transfer duly proven, or the person who may have sufficient judicial character and personality for the purpose, proven before the said governors.

CHAPTER IV.—*Application for mining claims.*

ART. 27. The right of preference for the concession and ownership of mining claims by reason of the priority of the petition, to which reference is made in article 20 of the law, shall be governed in case of equality of circumstances by the date of the presentation of the petitions. When in the petitions it is proposed to explore or make excavations in gardens, orchards, or any irrigated lands, although to present such a petition the permission of the owner is not necessary, if he should refuse to consent to the inauguration of such works and should make his objection within two months there shall be no remedy or appeal of any kind and the petitions shall be ignored.

If the owner of the land indicated in this article, upon the expiration of two months after permission has been requested, should not have answered either in the affirmative or in the negative, it shall be understood that he consents to the prosecution of the works. The proceedings shall follow their course accordingly, the governor of the province authorizing the explorer or the register to begin work, giving a bond or paying indemnity in the manner determined by article 11 of the law and articles 5, 6, and 16 of these regulations.

The petitions for explorations or registries shall also be ignored if permission be not obtained to establish works at a smaller distance than that required by article 12 of the law when it is desired to make them near the buildings, roads, public easements, and fortifications mentioned therein. In all these cases, and in the other cases referred to in article 20 of the law, the explorers or registers, in requesting permission for the works, shall inform the mayor in whose district they are to be executed, according to the procedure prescribed in article 14.

The petitions which have for their object the reduction of distances, referred to in the foregoing paragraph, shall be addressed to

the governor of the province, and the provisions of article 19 of these regulations shall be applicable thereto.

The persons interested may also inform the local authority of the petitions which they make to the owners of orchards, gardens, and irrigable lands for permission to continue works begun through the land occupied by said proprietors. After two months have passed without obtaining permission, or in case permission is refused before the expiration of this period, the governor of the province may grant it, as provided for in the second paragraph of article 20 of the law, after paying the indemnity and furnishing the bond mentioned in article 11 of the law, and observing also the provisions of articles 5, 7, and 16 of these regulations with regard thereto.

If the governor should refuse permission an appeal lies to the department of the interior, and against the decision of the latter there shall be no further remedy.

ART. 28. Within a period of thirty days, counted from the presentation of any petition for exploration or registry, when the land is of those in which in order to commence or continue work, the permission of the owner is necessary, or, in the absence of his consent, that of the governor, the respective interested persons shall be obliged to show the consent or refusal of the said owner of the land for inclusion in the proceedings, or to declare in writing the date in which they had asked for the authorization. If upon the expiration of the period indicated, which in registries or denouncements shall begin to be counted from the date on which forfeiture takes place, neither of the two actions has been proven, it shall be understood that the prosecution of the proceedings has been abandoned, and the petition in question for exploration or for registry shall be ignored.

ART. 29. The petitions for explorations or for registry shall be drafted in accordance with Form No. 2.

The plan may be contained in the petition itself or in a separate document annexed thereto, but the simultaneous presentation of both documents shall not be omitted, nor shall petitions which do not contain or include the plan be admitted.

ART. 30. The explorers and registers shall furnish a plan of the mining claims which they request, indicating thereon clearly and in detail the point where they may have commenced or will commence the works, from which, and with relation to the perimeter of the land they claim, they shall determine the boundaries with precision, either indicating points fixed, visible, certain, and known, showing in meters the length and breadth of the claims, so that an exact rectangle or the figure they are to have may be formed, or the direction both of the boundaries as well as the direction in which the claim must be outlined, for which purpose they shall in like manner indicate the length and breadth in meters.

When from the surveys made by the engineer it should appear that neither the points of reference nor the boundaries correspond to those

mentioned in the plan, or that the latter are not the boundaries, or that they are situated from the starting point of the works double the distance fixed in the petition or respective document, the land applied for shall be considered as different from that on which the survey was made, and the plan shall be canceled and the proceedings closed by order of the governor. From his decision an appeal lies to the interior department, who shall decide without further remedy.

ART. 31. Upon the presentation of petitions for explorations or for registry there shall be noted thereon, with the full signature of the respective official, the hour and minute, and the day, month, and year of the presentation, all written out, there being also stated that there have been deposited the 30 escudos required by article 73. In case the plan is contained in a separate document this fact shall be noted in the same memorandum, another being made on the second document, signed also by the same official, to show the simultaneous presentation required by article 29 of these regulations.

Immediately after these formalities the governor of the province shall order the admission of the petition, as prescribed in article 22 of the law.

The ordinal number of the petitions mentioned in the second paragraph of the same article shall be the one they may have been given in the stub receipt book, and shall be written out, without erasures or corrections.

ART. 32. In the offices of the governors of the provinces there shall be two books, one entitled "Explorations" (Investigaciones) and the other "Registries" (Registros), in order to fulfill the second paragraph of article 22 of the law in all its parts.

The two books shall be bound with leaves securely sewn in, and shall be stub books. The governor shall rubricate all the leaves in such manner that on both the receipt and the stub his rubric shall always appear, and all the folios shall be numbered both on the receipt and the stub.

Each book shall have a separate alphabetical index, in which shall be entered the names of the explorations or claims petitioned for, with a reference to the folio of the book in which the presentation of the petition is recorded.

In the book of "Explorations" shall be entered the petitions presented for said explorations, and also those referring to general galleries for explorations, transportation, and drainage, and the mining groups for explorations.

In the book of "Registers" shall be entered the petitions for full claims, partial claims, scoriæ, and dumps, the registers of mining groups, those which have for their object the development of the substances referred to in articles 4 and 5 of the law, and those which refer to the mineral products mentioned in article 6 when they are treated in fixed establishments.

On each one of the leaves of both books, divided into two parts, no other entry shall be made than that which relates to one petition. On the left-hand side shall be clearly and fully recorded the name of the person interested, and, in a proper case, the name of his representative, the object they desire, if the plan is contained in the petition itself or in another document, and the hour, minute, day, month, and year of presentation written out. Following this first entry shall be recorded the principal steps until the proceedings are closed.

By principal steps shall be understood the admission of the petition, the publication of the plan, the consent or refusal to examine and develop or to commence labors, the notice that the petitioners have requested permission of the owners of the land, the notice of having performed the legal work required, the examination and survey and the approval or declaration of nullity in any of the cases included in the law and regulations.

On the right-hand side the official who may have authenticated the memoranda in the petition shall, with the counter signature of the governor of the province, authenticate the repetition of the entry made on the left-hand side, from which it shall be separated by being cut off in order to be delivered to the person interested as a receipt.

No blank spaces shall be left between the entries, which must continue from the left-hand side of the leaf; neither shall there be erasures or corrections. If any of the latter should be necessary, they shall be made good by means of an explanatory note.

ART. 34. In the cases referred to in article 27 of these regulations the periods fixed by articles 23 and 24 of the law for the publication of the exploration or registry and in which to make objections shall be counted from the date on which permission to begin work was obtained from the owner of the land or from the governor of the province.

Said authority shall not order the admission of the petitions in the manner prescribed by article 22 of the law before the said permission has been obtained from the owner or unless it has been granted according to the said article 27 of the regulations; but upon the expiration of the periods referred to in the latter, which can not be extended, the governor shall, without delay or postponement of any kind whatsoever, order the admission, fulfilling all that is prescribed in the law with regard to the first steps and formalities of the procedure.

ART. 35. The period required by article 25 of the law in which the governor shall render his decision with regard to petitions for explorations shall be counted in the same manner as prescribed in the foregoing article for the cases included therein.

ART. 36. The permission granted by the governors of provinces to make explorations shall be for six years, provided that during that time the persons interested comply with the conditions imposed by the law and fulfill the formalities required.

If upon the termination of this period the exploration is being continued at a great depth, the governor of the province, in view of the report of the respective engineer, may extend the permission for another six years, provided the explorers request said extension before the expiration of the first term.

Only the secretary of the interior shall be competent to grant further extensions.

The permission granted to make explorations shall not serve to authorize the free disposal of the minerals.

At any time that mineral is discovered and the legal labor may be executed, as prescribed in articles 30 and 64 of the law, the explorers shall request a survey and concession, the proceedings being instituted in the same manner as for registries.

ART. 37. If a petition for exploration or registry is admitted the same day on which it is presented, the period of four months in which to perform the legal work of 10 meters shall be counted in the manner mentioned in article 28 of the law; but in the cases referred to in articles 27, 34, and 35 of these regulations it shall be counted from the day following that of the notification of the decree of admission issued by the governor of the province.

Before the expiration of said period the persons interested or their representatives shall forward to the proper bureau a document informing them that the legal labor has been performed and in what manner. The person interested shall be given the proper receipt for this document, visaed by the governor and signed by the official.

ART. 38. Mining proceedings shall be composed of the original documents and never of copies more or less authenticated. For this purpose there shall be attached the original requests, petitions, appeals, decrees, rulings, reports, notifications, and documents relating to said proceedings, and the greatest order shall be observed, arranging them clearly and correlatively. The foliation shall be by sheets; they shall be rubricated by the proper official, and it shall be specially observed that the acts appear in the successive order in which they take place, and that no action of a subsequent date be drafted or entered on the margins of the documents, nor that one be entered before another act which preceded it.

The blank spaces which will inevitably occur in some folios, including the petitions, shall be crossed whenever they occur.

Only in case that the decision rendered in proceedings should affect those objecting, shall a copy of the original decree rendered therein be forwarded to the objecting parties in the shape of a certificate visaed by the governor of the province.

The foregoing prescriptions shall be understood as being applicable to all kinds of proceedings relating to mining matters, and therefore the practice of keeping separate records is abolished as unnecessary and useless.

ART. 39. At the end of every set of proceedings there shall be entered by the proper official a memorandum of the folios contained in the same, that the blank spaces have been crossed, and any other circumstances which appear advisable and expedient. The memorandum shall be written out without containing any figures whatsoever.

ART. 40. All proceedings may be prosecuted by the persons interested or by means of representatives. The latter shall be required to present their legal power of attorney, a note of which shall be entered in the proceedings, unless the persons interested consent to the original being included in the record.

The persons interested or their representatives must reside in the capital in which the proceedings are prosecuted, and the administration shall communicate with them with regard to the action to be taken and the notifications to be made.

When for any reason whatsoever they may have absented themselves from the capital, or when the person interested or his representative does not reside therein, the notification shall be made through the official bulletins, the copy containing the same being included in the proceedings, and shall produce the same legal effects as a notification in person.

ART. 41. In order that the legal labor may show the existence of the mineral the working of which is intended, it shall always be performed within the vein, lode, or pocket discovered in regular seams and in the most advisable manner in irregular ones, according to their shape.

ART. 42. Any individual or association which is legally established may request the concession of a large mining group, for the purposes of exploration as well as registry, under the following conditions:

1. The mining group for exploration or registry must contain 20 claims at least and not more than 60. These claims shall have the proper area, according to the kind of mineral.

2. There shall be attached to the petition a topographical plan, as exact as possible, made by an engineer on a scale of 1 to 10,000, in which, after fixing a starting point and clearly describing it, all the claims united shall be traced and numbered as may be most convenient. A report shall also be presented in which there shall be set forth, from a scientific and industrial point of view, the advisability and advantages of granting the group requested.

3. Upon the presentation of the petition the sum of 10 escudos shall be deposited for each of the claims which is to form the group.

4. In petitions for groups for exploration similar procedure shall be followed as for petitions for ordinary explorations, and in registries of mining groups the procedure indicated for single applications shall be followed, the only difference being that the legal labor is to be performed at four points of the group situated at a distance from each

other of 400 meters at least when the mines referred to in the first paragraph of article 13 of the law are in question, and of 600 when mines mentioned in the second paragraph of the said article.

5. All other rules, conditions, and guaranties established in the law and in these regulations for proceedings for explorations and for registries are respectively applicable to these proceedings and their prosecution.

CHAPTER V.—*Surveys and concessions of property.*

ART. 43. In order to include in the survey, lands of estates which are included in the case referred to in article 10 of the law, permission shall be requested of the owner of the same; and if within two months he should refuse permission or not express himself, the governor shall authorize the survey in the manner requested, after the proper bond and indemnity, in the terms prescribed by article 11 of said law and articles 5, 7, and 16 of these regulations.

The petition for permission directed to the owner shall be communicated to the respective mayor in the manner and with the formalities mentioned in articles 14 and 27 of these regulations.

ART. 44. The period of four months fixed by article 30 of the law within which the register is to demand the survey shall be counted in the manner established in article 37 of these regulations, which relates to legal labor.

If the register should allow said period to elapse without requesting the survey, the proceedings shall be closed and lapse, as prescribed by article 64 of the said law in the fourth case of its first part.

The governors, under their strictest liability, shall take care that at no time within the four months shall a petition requesting the survey of their respective registrations be refused, and shall consider them presented and admitted as soon as delivered, immediately complying without any excuse whatsoever with the provisions of article 31 of the law, provided that the sixty days fixed in article 24 thereof for the filing of objections have elapsed.

ART. 45. The governors shall order that the notifications referred to in the third paragraph of article 31 of the law be made in the capitals of the provinces if the owners or petitioners of the mines, explorations, registries, galleries, scoriæ, and dumps adjoining the survey to be made, or the persons who are their legal representatives, should reside in said capital.

If both should be absent from the capital, instead of the personal notification, an announcement shall be published in the *Boletin Oficial*, in accordance with the provisions of article 40 and the second provision of the general ones of these regulations. Furthermore, the surveys shall always be announced beforehand, as required at the end of the said article 31 of the law, and in order to do so a sufficient time in advance, the engineers shall forward at the proper time the proper

notices to the governors of the provinces, stating therein clearly and exactly the days within which the survey is to be made.

If neither the owners nor their duly constituted attorneys of mines or registries, and those of adjoining mining works, including explorations, should not attend the survey, the engineers shall summon the respective foremen or persons in charge of the works, and if these should not be present either, they shall state this fact explicitly in the report of the survey. There shall be specially stated therein the absence or presence of the owners, as well as of their representatives, including not only those of the mine to be surveyed, but also those of the adjoining claims.

If the owners or persons interested, who may have been notified in the capital of the province, or who, being absent, must be considered as cognizant of the fact by the announcements in the *Boletin Oficial*, should not attend the act of the survey, it shall be considered that they renounce their right to object against the results of the same, this also being understood if the foremen or persons in charge of the works should be absent and the summons referred to in this article is not served on them.

There shall not be admitted any remedies against the survey but protests, remarks, and objections made at the time of the survey and the fixing of stakes or corner stones.

ART. 46. The surveys shall not be made by the engineers when there is no undenounced land, when the legal work has not been performed, or when the existence of the mineral is not proven. In all these cases the proceedings shall be returned to the governor of the province, appearing therein by means of a memorandum of the reasons for the return.

ART. 47. In order to make the surveys, the order of preference of the proceedings with regard to their priority, counted from the date of the presentation of the petitions, shall be observed, provided that mines situated in the same region are in question.

This strict order shall be ignored only when the distance and isolation of the mines preclude any fear of causing damage.

ART. 48. Neither after the publication of nor during the survey and examination can the persons interested change the plan presented with the petition.

The cases referred to in the second paragraph of article 32 of the law are excepted; but if in said cases there should be no agreement between the engineers and the persons interested, the survey shall be made immediately in the manner decided upon by the former, the latter having the right to appeal to the governor of the province for the proper resolution.

If the appeal should not be taken within the term of two days through the engineers, in order that they may make a report thereon and forward it to the governor, the survey shall be considered as agreed to.

ART. 49. In fixing the boundaries the engineers shall also take care to arrange them in such manner that, without interfering with the workings, they avoid as far as possible free spaces or bands between claims. For this purpose, and provided that a third person is not injured thereby, said engineers need not confine themselves to the plans made by the persons interested, either with or without their consent. Should it be done without their consent, the appeal referred to at the end of the second paragraph of the foregoing article may be taken.

ART. 50. The surveys shall be made only by the proper engineer, without the assistance of a clerk. The witnesses, the persons interested or their representatives, and the owners or managers of adjoining mines and mining works shall witness the survey; the engineer shall make the proper memorandum, stating therein clearly and minutely, without omitting any circumstance tending to give a good idea of the ground, of the location of the mine, of the boundary marks, and its relation to certain and fixed points of the region in which it is established, of the character of the mineral, of its conformity with or difference from the samples submitted, of the form, thickness, and other conditions of the vein, and of the protests, claims, and remarks made by those called to be present at the survey, who shall lose all right to be heard afterwards, as prescribed in article 43 of these regulations, should they not attend said act.

In proceedings of registration by reason of forfeiture or denouncement-registration, in which the performance of the legal labor is not necessary, the description of the vein and minerals must not be omitted which constitute it, with the only exception, which must be included in the memorandum, when it is absolutely impossible on account of the condition of the old and forfeited mine.

All those attending who know how to write shall sign the memorandum with the engineer.

ART. 51. Two topographic plans shall be prepared by the engineers of every survey, traced on card paper or cloth, each accompanied by the proper explanation. Both shall have sufficient margin to be attached to the proceedings.

The scale of the plans shall be of 1 to 5,000; the governor and the Department, however, in special cases, shall have power to order that they be made on a different scale, larger or smaller, as they may see fit.

For the mines referred to in the second paragraph of article 13 of the law, as well as for mining groups, the scale of the plans shall be of 1 to 10,000 when claims of different kinds are to be included in one plan; all shall subject themselves to the scale corresponding to the concession which is the principal object of the plan.

The plans shall be drawn carefully and with cleanliness, different colored inks being used in order to secure greater clearness, and the

situation of the explorations, register, mining works, and adjoining mines shall be indicated, their mouths or starting points being designated whenever possible.

For the formation of the plans and the drafting of the memoranda the engineers shall observe the rules and forms published by royal order of February 25, 1863.

ART. 52. In order that explorers may secure the survey referred to in the second paragraph of article 35 of the law, their petitions must conform to the conditions prescribed in article 30 of the same, and they must present at the same time samples of the mineral discovered, which, in the judgment of the engineer, suffice to prove its existence and the possibility of profitably working it.

ART. 53. Mining engineers shall conform strictly to the provisions of law and to those contained in these regulations with regard to the manner of making the surveys, drafting the memorandum, and making the plans thereof, and shall take the greatest care in making the examinations and in all the technical work without omitting any information, circumstance, or notice tending to contribute at any time to a better understanding and explanation of the questions which may arise, in order that the surveys as well as the plans may serve as a basis and foundation of the rights of the parties and guarantee to them their legality, avoiding doubts, complaints, and objections.

For this purpose, when they go to the ground, they shall take care to have an exact knowledge with regard to the situation of all the adjoining concessions, having examined for this purpose the proper data and information in their office or demanding of the authorities the records which may be necessary.

ART. 54. The provisions contained in the foregoing articles for the surveys of mining claims are applicable and extensive to the survey of large groups or associations of mines, and to scoriæ, dumps, and surplus lands.

ART. 55. The mining engineers intrusted with the examinations and surveys shall return to the governors of the provinces the respective proceedings within the period fixed in the second paragraph of article 31 of the law, reducing to writing the work done, including the plans, and stating at the same time in a separate communication the particular conditions which are to be imposed on those demanding the concession, in addition to the general conditions required by the law and regulations.

All the plans shall be visæd by the chief engineer, whose subscription shall make him liable for the conformity of the plan with the result of the memorandum of the survey, as also that in the graphic description all the rules indicated in the law and in these regulations have been observed.

ART. 56. Within the term of fifteen days, counted from that following that on which the survey was made, the persons interested or

their representatives shall deliver to the government of the provinces, in tax paper, the sum of six escudos for each complete or incomplete mining claim which may be the object of the proceedings. The same amount shall be paid for every surplus and claim, scoria, or dump.

They shall furthermore deliver within the same period, and also in tax paper, the amount corresponding to the stamped paper on which the title of property is to be drafted.

The term of fifteen days shall always be counted from the date of the first examination when the survey may have been made, and it shall not be considered as postponed nor suspended either by reason of the engineer delaying the return of the proceedings or on account of the correction or modification of the original survey, or for any other causes changing the definite character which, as a general rule, said operations should have.

ART. 57. The inquiries to the department relating to the special conditions to be imposed in a concession, referred to in the second paragraph of article 27 of the law, can only be imposed when circumstances or questions are referred to not included in the said law nor in these regulations; and the governors shall make the same as soon as the engineers have returned the proceedings with the survey made.

On this point the government shall hear the technical mining board when the conditions in question are technical and relate to the mineral or to its working.

The title of property to mining claims, surplus lands, scoriæ, and dumps shall conform to form No. 4, and shall be issued by the governors within the term of fifteen days, after the period of thirty days referred to in the first paragraph of article 37 of the law has elapsed without an appeal having been taken.

One of the plans shall always be attached to the title, which plan shall be removed from the record, the seal of the government of the province being affixed thereto.

CHAPTER VI.—*General galleries for exploration, drainage, and transportation.*

ART. 58. No petition whatsoever shall be admitted for the driving of a tunnel or gallery when it is to cross lands occupied in whole or in part by mines granted or registered or in course of exploration, if certified copies of the agreements and stipulations referred to in articles 40 and 41 of the law are not attached.

The petitions to drive general galleries for explorations, drainage, or transportation shall be drafted in accordance with Form No. 5, and in the plan accompanying said petitions there shall be determined the situation of the registries and mines of other persons interested which they might possibly include.

ART. 59. When the concession of general galleries for exploration, drainage, or transportation is desired, upon the publication of the surface plan in the manner referred to in the second paragraph of

article 41 of the law, the governor of the province shall order that the proper personal notifications be made to the persons interested and to the owners of the registries or mines which are to be included in the space the general gallery is to traverse.

If the persons interested or the owners should have empowered any attorneys or representatives, the notification shall be served on them.

When the notification is to be made on account of the existence of the registries and mines referred to in the foregoing paragraph, the provisions of article 24 of the law relating to explorations shall be observed, and what may be proper of the provisions of articles 5, 7, 14, 16, 27, 34, and 35 of these regulations.

ART. 60. The reservation of claims for the constructor of a general gallery, according to article 42 of the law, shall be requested by said constructor when he requests authorization to execute the works, stating their number, and designating and tracing them in the plan. No registries or explorations whatsoever shall be permitted on the ground they occupy during the time granted for the execution of the works of the general gallery, and only when the subterranean works clear them and the constructor does not make them the object of an exploration or registry shall the engineers, when visiting the mines of the region, give due notice to the governor of the province, so that he may order that within the period of fifteen days the constructor or his representative choose between the institution of the proper proceedings for exploration or registry, or make a declaration that the land is free, renouncing the claims as they do not suit him.

This declaration shall be made by the governor, when proper, eight days after the receipt of the answer of the constructor, being published in the *Boletin Oficial* of the province. If the constructor should not reply to the intimation of the governor within a period of fifteen days, it shall be considered that he renounces his right, and the claims shall be declared renounced and the land free.

In both cases an appeal for revision lies to the *Ministerio de Fomento* within a period of thirty days.

ART. 61. For a variation of the line or lines fixed in the concession of general galleries the proceedings instituted, as prescribed in article 43 of the law, shall follow the same course and shall contain the same formalities as the original proceedings of the concession.

ART. 62. In case the persons interested do not agree with the appraisements referred to in the second paragraph of article 44 of the law, the proper action shall be taken according to the provisions contained in articles 5 and 7 of these regulations.

ART. 63. Before the governor renders the proper decision in accordance with the provisions contained in the second paragraph of article 41 of the law, he shall hear the mining engineer, who shall fix the technical conditions to be imposed.

CHAPTER VII.—*Concessions of dumps and scoriæ.*

ART. 64. The proceedings which may be instituted to obtain concessions to work dumps or scoriæ shall follow the course prescribed in the law and what is established in these regulations in Chapters IV and V for registries.

ART. 65. The preference allowed the owner of a dump or scoria by article 48 of the law, when a stranger requests permission to work a mine within its boundary, shall also be granted when a registry, or authority to explore is requested.

In either case the governor, upon the presentation of the petition, shall order that the proper notification be made to the concessioner of the dump or scoria or to his representative, and if, within the period of thirty days fixed in the law, he shall not have communicated his answer to the governor of the province, it shall be considered that he renounces his right of preference.

If the scoria or dump should not be surveyed at the time of the presentation of the petition for the registry or exploration of a mine, the said preference can not be demanded, nor shall the persons interested in the new claim enjoy the ownership which is granted them by article 59 of the law. All shall subject themselves to the prosecution of their proceedings, which must be the object of a concession when proper, without any right of preference, provided that when the respective claims are worked the rules for police and safety already issued, or which may subsequently be issued, are observed.

CHAPTER VIII.—*General mining conditions.*

ART. 66. Miners shall have the works performed subject to the rules governing the same, and shall take care that the mines are kept clean, drained, and well ventilated. All unsafe workings shall be considered contrary to law, in which, in addition to not strengthening or securing the mine, subsequent development is rendered impossible and the lives of the laborers endangered.

The miners shall be obliged to preserve the landmarks or stakes which may be fixed when the claims are surveyed, as well as to observe the provisions relative to strengthening and to policing and sanitation, which are contained in the regulations on these subjects, and the rules which may be prescribed in each particular case by the engineers and those issued exclusively upon sanitation by the local authorities, after an expert report.

The governors, in view of the examination and report of the proper engineer, shall fix in each case, at the instance of a party, the period within which the waters which have accumulated in the workings of a mine are to be removed, observing the greatest exactness in this matter and fixing the shortest period possible, in order to avoid the development of one mine at the expense or to the detriment of another.

ART. 67. For the purposes and enforcement of the foregoing article, and for the fulfillment of the provisions contained in the law and these regulations, the owners of one or more mines and the concessioners of galleries, explorations, dumps, and scoriæ shall keep a bound book, folioed and rubricated on all its leaves by the proper mayor.

This book shall be entitled "Book of visits to the mine (gallery or exploration) of ———, situated in the district of ———," and on the first page thereof a memorandum shall be made by the proper mayor and the secretary of the municipality of the folios composing the book.

ART. 68. The engineers, at least once a year, if not prevented therefrom by more urgent requirements of the service, shall make visits to the mines and mining works and shall enter in the shape of a memorandum in the book referred to in the foregoing article the condition in which they find them and the defects they observe in their workings, establishing the rules they may deem proper with regard to their method, as well as with relation to the policing, sanitation, and all that may be necessary for the development of the industry and the legitimate benefit of the explorers.

During the said visits the notices referred to in articles 20 and 60 of these regulations shall be given.

In the office of the chief of each district there shall also be kept a folioed and rubricated book in which to record the visits to mines. In this book the engineers shall make an entry, authenticated by their superior, of the result of each of the visits made and the rules or notices they may have entered in the book of the mine or other works of this character.

This shall not prevent their informing the governors, through the proper chief, of serious faults which they may not have been able to prevent during their official visits to the mining region and which should be remedied, or which require discipline or punishment, according to the provisions of the law.

ART. 69. The works of a concession may be concentrated on any of the different claims of which it consists, but it is an indispensable requisite that the working force corresponding to all of them be employed in accordance with the provisions of articles 50 and 52 of the law.

Miners having different concessions may enjoy the same benefit when they adjoin each other. For this purpose claims shall be considered as adjoining when there is not space between them sufficient to form a complete or incomplete claim.

The miners included in the case of the foregoing paragraph may, furthermore, extend the benefit of the concentration of labor to any other mines they may have in the same region, provided the two following circumstances are attendant:

1. That the number of said separated mines is less than half of those forming the principal group.

2. That the distance between the mines does not exceed the space which four claims of their kind might occupy.

ART. 70. It being very difficult, if not impossible, to fix in advance with regard to a mine in which as yet work has not begun what is the labor required in order to consider it as worked in the manner required by law, what is prescribed on this point in article 53 of the same refers to and must be understood only in cases in which it is desired to verify, either officially, in proceedings, or at the instance of a party, if a mine has been abandoned or not, this fact being ascertained by the engineers taking into consideration the nature of the ground, the character of work done, and other conditions which may have been encountered in each working.

In these cases the engineers shall also consider the mechanical force which may have been employed, as well as the work done for extraordinary drainages by reason of unforeseen inundations, and the works of general galleries for drainage and transportation which may be indispensable or are well known to be useful for the working and development of the mines or scoriæ; and in the computation of all this with regard to the work done the rules and conditions which, according to the circumstances of each case, are considered most proper, shall be observed.

After the engineer has rendered his report in proceedings of this character, the governor, before rendering a decision, shall order that the former be communicated to the owner or concessioner of the mine, in order that he may state whether he agrees thereto or not, and in a proper case the provisions contained in the second paragraph of said article 53 of the law shall be observed with regard to the appointment of experts.

Only such individuals as possess diplomas as mining engineers, or who are authorized as such by the department, shall be considered experts in these cases, in accordance with the prescriptions contained in the first of the general provisions of these regulations.

ART. 71. The owners of claims which produce the products which the fiscal laws declare are subject to the control of the department of finance can only dispose of the same with the intervention and under the conditions fixed by said department or its dependencies.

ART. 72. In addition to the general obligations imposed by the law and these regulations upon miners, they shall be subject to the private conditions which may be imposed in each special case, and which shall be stated and included in the title of ownership and in the authorizations which may be granted.

The rural guard shall fulfill the duties corresponding to its institution with regard to minerals, buildings, implements, and other objects the property of miners, which are on the surface of the claims.

The governors may, furthermore, when required by circumstances or by the conditions of each mining region, issue special rules or

notices, hearing the chief engineer, in order that the surveillance of the rural guard shall offer the safest guaranty to this class of property.

ART. 73. Upon the presentation of the petitions for registry, whether the claim be complete or incomplete, of surplus lands, explorations, of dumps and scoriæ, and for the reduction of the mineral products mentioned in article 3 of the law, and of auriferous or stanniferous sands in fixed establishments, the persons interested shall pay the sum of 30 escudos. No petition shall be received if the payment of the sum mentioned is omitted. In petitions relating to mining groups the provisions contained in article 42 of these regulations shall be observed.

ART. 74. The amounts resulting from the payment of the 30 escudos referred to in the foregoing article shall be covered into the treasuries of the province by the governors weekly, being held at their disposal to pay the daily salaries of the engineers and assistants. The surplus resulting shall be returned to the persons interested.

If with the 30 escudos the expenses of the proceedings for which they were deposited should not be covered, the persons interested or their representatives shall be obliged to pay what may be wanting within a period of eight days from the date they received notice of the excess of expenses.

The notification shall be included in the proceedings as well as the payment, with the formalities required by articles 31 and 38 of these regulations.

Every six months a statement of the receipts and expenditures of the funds referred to in this article shall be published in the *Boletin Oficial* of the province.

The provisions contained therein shall be considered as a complement to the prescriptions of article 61 of the law and of article 56 of the regulations, with regard to surveys.

CHAPTER IX.—*Cancellation of proceedings, forfeiture of concessions, and procedure in new awards.*

ART. 75. In accordance with the provisions contained in article 64 of the law, no petition for registry, surplus land, exploration, the concession of dumps or scoriæ, the development of the mineral products mentioned in article 3 of the said law, and the working and development of auriferous or stanniferous sands, shall be admitted unless the amount fixed by article 73 of these regulations is paid, and until a surface plan is delivered, as prescribed in article 29 of the same.

Neither shall petitions for registry or explorations be admitted which refer to lands already registered or explored, the proceedings for which are being passed upon and whose petitions have been admitted and the surface plan published.

Nevertheless, petitions for registry or exploration relating to lands which are the object of proceedings already instituted may be

admitted when it is stated in said petitions that they contain errors which invalidate them, or when, even though this is not stated, there is sufficient cause to believe that said errors or defects exist. In such cases, if the nullity is certain and it is proper to declare it, subject to the precepts of the law and regulations, the governor shall issue the proper orders for the purpose, the new proceedings following the legal course. When the cause for nullity alleged does not exist, the petition for exploration or registry presupposing it, shall be rejected, becoming null and void, and the original proceedings shall continue their course in the proper time and manner.

As soon as any of the persons interested become involved in any of the faults mentioned in the said article 64, and when that mentioned in the second paragraph of this article occurs, the governors shall decree the cancellation of the proceedings as null and void, ordering that the notifications to the parties be duly and properly made.

The publications in the *Boletines* of the decrees of cancellation shall not be made until said rulings are final, this being understood without prejudice to the provisions contained in the third paragraph of article 40 of these regulations.

ART. 76. In the cases referred to in the second and third paragraphs of the foregoing article the canceled proceedings can not be revalidated or have any effect at any time whatsoever, even though the preferred proceedings which gave rise to the nullity of the former should also subsequently become null and void.

ART. 77. In addition to the concessions referred to in article 65 of the law, in determining the causes which are to give rise to a declaration of nullity, the right to a general gallery shall be forfeited and lost, provided that the conditions under which its execution was authorized are not fulfilled or complied with.

ART. 78. The proceedings instituted ex officiò for the declaration of forfeiture shall begin with the decree of the governor, stating the causes which give rise thereto. This resolution shall be communicated to the concessioner, in order that within the period of fifteen days he may state what he wishes in support of his right. Upon the expiration of this period, with or without an answer, the governor shall order, if he considers it necessary, that the proper investigations be officially made to clear up the facts, and shall call for a report of the engineer on whom it is incumbent to render it, the provisions contained in article 70 of these regulations being afterwards observed.

After the proceedings have been thus instituted the governor shall declare, as may be proper, the forfeiture of or the continuance of the concession.

The same procedure shall be observed when the proceedings are instituted at the instance of a party, the governor being obliged to issue an order for the institution of the proceedings as soon as the petition is presented.

It shall be ordered therein that the petition of the new register be

submitted to the engineer for a report, and that the fact of its presentation be communicated to the concessioner, in order that he may state what he considers proper within the period of fifteen days. The engineer must make the examination and render his report within the two months following the presentation of the petition and without prejudice to reporting on each and every one of the circumstances alleged by the register as a basis for his claim and to taking into consideration the provisions of article 70. His report must include—

1. The condition and character of the works of the claim or claims in question, fixing, with the greatest exactness, the measure of their respective importance and their total extent.

2. The measure and extent, according to an approximate calculation, of the works of the same class which could have been performed each year during the period and with the workmen required by law, counted from the possession of the concessioner.

The register as well as the concessioner may appoint an engineer to act with the one appointed by the governor, and their reports shall be attached to the proceedings.

After this has been done and the provisions contained in the second paragraph of article 53 of the law and in the third and fourth paragraphs of these regulations have also been observed, in a proper case, the governor shall render the proper ruling within the period of one month.

Proceedings of forfeiture instituted by reason of the formal and explicit abandonment of the concession shall be considered ex officio, in which case the provisions of articles 62 and 63 of the law shall also be observed.

In order that the person who brings an action before the courts against the possessor of a mine may have the right mentioned in the last paragraph of article 65 of the law, it is necessary that the following circumstances be attendant: First, that the proceedings on the renunciation or forfeiture of the mine were instituted in the civil government subsequent to the bringing of the suit before the courts, because should it have been done beforehand the litigant can not allege any right against the result thereof, even though he should obtain a judgment in his favor from the courts; and, second, that within a period of eight days after the institution of the suit before the courts, the litigant present an instrument to the governor, binding himself to keep a force of workmen on the mine during the suit in case the concessioner should renounce it and in case said authority should have notice of the abandonment of the works.

After this last requisite has been complied with by the litigant the governor shall take the proper action in order that the former may perform the mining labors, prescribing at the same time what may be necessary with regard to intervention in the works and a bond to answer for the mineral which may be worked.

If after the litigant has been authorized to perform the labors he should not begin the same within the period which may be fixed by the governor, which shall not exceed four months, or if he should abandon them after their commencement, giving rise to forfeiture of the concession, he shall not have the right mentioned in the said last paragraph of article 65 of the law.

ART. 79. For a better understanding of the provisions contained in the foregoing article and in the second and fourth paragraphs of article 68 of the law the following rules shall be observed:

1. The proceedings for forfeiture at the instance of a party must be instituted by means of a petition for registry, subject to all the conditions and accompanied with all the requisites fixed by the law and regulations for petitions of that character. The only difference shall be a statement in the petition to the effect that a previous concession exists with regard to the land desired, the name of said concession and that of the concessioner being stated if known, and that, there being evident reasons for the forfeiture, according to the law and these regulations, on account of the faults which shall be mentioned in detail, it is desired that after the declaration of forfeiture the registry proceedings be instituted and proceeded with. When the forfeiture of an exploration is in question it shall be applied for by means of a petition for exploration, with the conditions and formalities which are obligatory, the indications required for registries in the foregoing case being made.

2. After the forfeiture has been decreed and executed, from the date on which this takes place the time shall begin to be counted in which to request the survey; but if the forfeiture should not be or is not considered proper, and the former concession is declared in force, the cancellation of the registry of exploration proceedings shall at once be declared.

When the mine forfeited should not have the area for a complete or incomplete claim of its class fixed by article 13 of the law, and there should be no free land near by to make up the claim requested by the new registry, the latter shall be declared null and the land shall be awarded as surplus land, in accordance with the provisions contained in article 15 of the said law.

3. When simply a registry or exploration is requested, without stating that there exists a prior concession of the land requested, and without consequently requesting the proper declaration of forfeiture, this circumstance shall not invalidate what has been requested, nor shall it affect the granting of the concession asked for. What shall be done at any stage of the proceedings of exploration or registry, as soon as information is received of the existence of a previous concession which has not legally lapsed, will be the suspension of the continuation of the proceedings in course for the purpose of at once taking the proper steps for the declaration which may be proper, the

proceedings being resumed according to their status as soon as the forfeiture is final, or otherwise being canceled.

4. If the existence of a prior concession with regard to the land requested should not be known or should not appear, and the proceedings should continue to the point of the granting of the exploration or registry after the expiration of the period in which to appeal, according to the law and article 86 of these regulations, without it having been done, no remedy whatsoever shall be admitted, the purpose of which is to annul the new proceedings, based on the absence of the previous declaration of forfeiture. For these cases and for all subsequent legal purposes the concession relating to the land with regard to which a concession of any kind whatsoever may have been obtained, shall be considered as forfeited.

CHAPTER X.—*Reduction works.*

ART. 80. Every reducer of minerals in fixed establishments shall obtain the rights and contract the obligations referred to in article 71 of the law.

CHAPTER XI.—*Taxes with regard to mining.*

ART. 81. When the proceedings have reached such a stage that the annual surface tax is due, in accordance with the provisions contained in articles 80 and 81 of the law, the governors must, under their liability, forward the proper notice to the respective dependencies of the treasury, in order that the amount due therefor may be collected.

In the proceedings there shall be stated that this formality has been complied with, and a memorandum to this effect shall be visaed by the governor, and shall also bear the full signature of the official in charge.

The same shall be done for the opposite purposes when a survey is annulled, and when the forfeiture of a concession becomes final.

ART. 82. It is the duty of the department of the treasury to issue the resolutions it may consider proper for the collection of the taxes established in chapter 12 of the law.

CHAPTER XII.—*Authority and jurisdiction in mining.*

ART. 83. The terms in which to appeal from the decisions of the provincial council to the council of state in the suits of forfeiture referred to in article 68 and in the second paragraph of article 88 of the law, shall be those fixed for all appeals in the regulations in force on the mode of procedure in litigation in which the administration is a party, or those which may be fixed hereafter in the law and regulations relating to the same subject.

In order to take an administrative appeal to the Ministerio de Fomento from the rulings of the governor in the cases referred to in articles 67 and 88 of the law it shall be filed within the term of thirty

days, which is established in the first paragraph of article 67 and in the last paragraph of article 88 for this purpose. These appeals shall always be presented to the governors, who shall forward them to the department, with the respective proceedings, for the decision which may be proper. Appeals may be forwarded to the department directly only in case the governor should refuse or oppose the admission of the appeal for review.

From the rulings of the governors declaring the forfeiture an appeal lies to the provincial council within the term of thirty days, also fixed for this purpose in the third paragraph of article 68 of the law, and in the said last paragraph of article 88 of the same.

ART. 84. In addition to the cases in which, by article 89 of the law, an appeal lies to the council of state from the royal orders definitely deciding mining proceedings, it shall also be admitted in accordance with articles 25 and 26 of the regulations of July 27, 1853, for the execution of the law of eminent domain for reasons of public utility in questions arising on account of the nonagreement of the persons interested with the appraisals of the indemnifications referred to in articles 5, 11, 44, and 71 of the law, and in articles 5, 7, 16, 17, 27, 43, 59, 62, and 80 of these regulations.

ART. 85. Appeals, administrative as well as litigative, which may be brought by the persons interested with regard to indemnities, shall not interrupt the works nor the course of the respective proceedings, and therefore the provisions of article 7 of these regulations shall be complied with.

ART. 86. No appeals but to the council of state, allowed in accordance with the law and regulations, shall be admitted through litigative channels and taken by—

1. The persons interested who are granted or refused permission to make mining explorations or investigations which are the object of the respective proceedings, in the three cases mentioned in article 89 of the law.

2. The persons interested in the same three cases who may have made their objections to the governors within the legal period.

3. Those who may have protested at the time of the surveys against the same and its consequences.

4. The concessioners to whose land a new concession may have been granted owing to ignorance of their rights.

5. By the persons interested or owners of claims, provided it is desired to change the situation or invade the ground included within their claims.

6. The persons interested who are not satisfied with the appraisal of indemnity referred to in article 84 of these regulations.

In order to take these appeals, the period of thirty days fixed by article 91 of the law shall be counted, according to the cases, from the date of the notification or of the publication of the royal orders in the

Boletin Oficial of the province, to the day it is filed in the general office of the council of state.

Upon the expiration of the periods mentioned, as well as of all those within which the law and these regulations grant the privilege to object or file an administrative appeal, the rulings and resolutions shall be final.

If the third objectors are the appellants against the concessions granted, in order to validate the suits with regard to the concessioners, the citation of the latter shall be necessary, but not their appearance, it being understood that they renounce their right to be heard if within the period of the summons they do not attend the suit.

When the persons who were not granted a concession after the survey was made are the appellants, in order that the suits may be valid with regard to the third objectors, the citation of the latter shall also be necessary, but not their appearance, it being understood that they renounce their rights to be heard in the same manner as is established for concessioners.

The latter, as well as the third objectors, in the cases referred to in the two foregoing paragraphs, shall have no other character in taking part in the suits than that of coadjutors of the administration.

ART. 87. In order to fulfill the conditions contained in article 94 of the law it must be remembered that the jurisdiction corresponding to the ordinary courts in all questions with regard to mines, dumps, scoriæ, galleries, or tunnels and reduction works, instituted between parties, relating to their ownership, must be understood as including a case in which the State may have granted the proper concessions, assigning the ownership which the law admits in the substances mentioned in article 1; but if suits are in question with regard to a better right of ownership not yet granted by the administration, the courts shall not confer any more rights by their decisions than the administration may grant at the proper time.

Contentions between the same parties with regard to participation in the expenses of working and in profits, and relating to doubts arising in some question or other, shall always be of the competency of the courts, but said cognizance in this case, as well as in that indicated in the last portion of the foregoing paragraph, shall not affect nor hinder the administrative action to institute and close, in a proper manner, the proceedings involving the claims and mining works, which are the origin of the contentions.

The administrative concession of one or many claims, scoriæ, explorations, galleries, reduction works, and any other kind of mining works shall never be an obstacle to a due fulfillment of what may be decided in the final decisions of the courts on ownership or participation therein.

Questions instituted with regard to superimpositions and correction of the limits of claims and mining works, on the surface as well as

underneath the surface of mines, come under the exclusive jurisdiction of the administration; but the cognizance of claims made with regard to the improper extraction of minerals and the indemnification of losses and damages in mines or concessions already granted by the state and involving the ownership and rights of individuals or companies, comes under the jurisdiction of the ordinary courts.

According to article 95 of the law, and in accordance with the spirit of its prescriptions, the courts of competent jurisdiction in causes instituted with regard to defrauding of the public treasury shall also be competent in causes instituted and arising by reason of the exploration, development, and alienation of minerals, if said acts take place before the legal concession of the respective claims has been obtained.

ART. 88. The engineers of the mining corps shall be the only experts for all legal purposes in suits of which ordinary courts take cognizance.

CHAPTER XIII.—*The corps of mining engineers.*

ART. 89. Mining engineers and the professional assistants shall be subject to their organic regulations, and shall comply with the precepts thereof, and any other provisions which may hereafter be issued for the fulfillment of their duties, discharging with the greatest zeal and diligence, in the order and manner prescribed in the said regulations, all the duties and obligations intrusted to them and designated in the law of mines and in these regulations.

GENERAL PROVISIONS.

1. There shall be considered as experts for the purposes mentioned in the first general provision of the law and in article 70 of the regulations:

1. The engineers belonging to the corps supported by the State.

2. Those who possess a diploma as mining engineers, and those who are entitled thereto by reason of having pursued the career as day pupils in the special school of mines and have passed the general examinations.

3. Those who have a diploma as mining engineers issued by any foreign Government, and those who may have made the proper studies in any country.

In order that those included in the last case may be considered as experts in Spain it shall be necessary that they prove that they have obtained the proper authorization from the Ministerio de Fomento.

The department shall grant or refuse these authorizations upon the petition of the persons interested, submitted with the proper documents, after hearing the technical mining board.

2. All the periods fixed in these regulations, as well as those established in the law, can not be extended and are final, holidays being included therein, and shall begin to be counted from the day follow-

ing that on which the administrative notice may have been, when the persons interested or their representatives reside in the respective capital. Should they not reside there the notifications shall be made through the *Boletines Oficiales*, inserting the ruling or the portion thereof which gives rise thereto, and the period shall begin to be counted from the day following that on which this may have taken place.

3. The administrative notices referred to in the first of the general provisions of the law may be given by any employee or agent of the authority to whom the governors intrust this commission. In said notifications there shall be stated, and under no pretext shall its immediate performance be delayed, that a copy of the decree, ruling, decision, or resolution giving rise thereto was delivered to the persons interested, the person notified signing with the person making the notification, or by two witnesses, should he not know how to write or refuse to sign.

4. All this work shall be gratuitous in mining proceedings, and no other fees shall be collected from the parties but those designated in the regulations and for the purposes mentioned therein.

The daily salaries of the engineers for the official work mentioned in articles 62 of the law and 68 and 78 of these regulations shall be defrayed from the general budget of the State when the concessioners or registers may have complied with the provisions of the law and regulations in abandoning the respective claims. Otherwise the respective persons interested shall pay the same in addition to the fines they may have incurred. In cases of insolvency the payment shall be made from the general funds, the right to bring an action against the debtors to secure reimbursement being reserved at all times.

The accounts for payments for examinations, which are always to be paid by the State, shall be kept properly separated. The governors shall approve them when proper, stating the legal reason or motive for the payment by the State, and shall forward them to the interior department, in order that the latter may order their payment.

The salaries earned per day by the engineers in the cases referred to in article 88 of these regulations shall be for the account of the persons interested in civil suits and with regard to criminal actions, for the account of whoever may be condemned to pay the costs.

The inquiries made or reports requested of engineers by the courts shall be made and returned through the governors, except in the special cases in which the inferior or superior court requires the engineer to testify before them.

5. In the administrative proceedings all the documents of the persons interested shall be drafted on the proper stamped paper, according to the provisions in force on the subject. The rulings, reports, and other administrative proceedings which can not be included in

said documents shall be continued on official stamped paper, or on that used by the authorities or employees who take part in the institution and course of the proceedings.

All the proceedings shall be inclosed in the proper wrapper according to form number 6, and the officials intrusted with the same shall never neglect to make the proper entries, in order that the date of the presentation of the instruments may be seen, those on which the proceedings are forwarded to the engineer and to the provincial council and those on which they are returned, as well as entries showing that the provisions of the ruling of the governor have been complied with.

6. The governors only may grant to the parties, on their request and when they believe it proper, certificates of the contents of the proceedings, and shall be visaed by them and issued by the chief of the section of Fomento, or by the person acting in his stead, and the officials of the provincial government as well as the mining engineers are forbidden under their strictest liability to act in contravention hereto.

7. At no time and for no reason whatsoever shall the original proceedings be delivered to the parties; but upon an order of the governor they may be exhibited in the offices, when proper, in order that they may be examined by the persons requesting it, who may take such memoranda as they may deem proper. The original proceedings shall be sent only to the provincial councils when they are to make an administrative report, or when they are to take cognizance thereof in administrative litigation, and also to the engineers for the performance of the technical work and for a report on the expert points coming under their jurisdiction.

8. In order to comply with the provisions contained in article 38 of these regulations, provided that the department of Fomento, in cases of which it is to take cognizance and in order to complete the proceedings, they should be returned to the governors for the performance of some formalities, to correct some errors or to cure some defects or omissions which may have occurred, the new entries and work done shall be placed immediately after the said proceedings in their proper chronological order, including therein the superior order providing for said steps. Should any corrections be necessary in some instrument or plan, a note thereof shall be made in the proper memorandum. When the change of a plan or instrument is ordered, those already included in the proceedings shall not be removed in order to be replaced by those amended, but they shall be attached to and the former ones respected, and shall be placed at the folio where the proceedings and formalities conclude, or continue when the changes were made.

9. The governors shall see to it that previous annulled or forfeited proceedings, should there be any, relating to the same ground involved

in the last proceedings be attached to the latter, a statement being made in the proper entry.

10. The persons interested can in no case prevent the visits and examinations of the engineers when the latter consider them proper in order to fulfill the provisions contained in articles 20, 60, and 68 of these regulations, and in order that through them the government may exercise the surveillance required of it in all mining works, labors, and establishments.

11. The advantages which may at once be enjoyed by mining concessions granted up to the present time, or which may hereafter be granted in view of pending proceedings subject to the royal decree of July 4, 1825, and to the law of April 11, 1849, shall be the payment of the fixed surface tax and the taxes referred to in articles 80 and 84 of the law, the privilege to concentrate labor and to extend the bounds of claims already surveyed, should there be any free land, to the area designated in articles 13 and 14 of the same. This privilege shall not give preference in any case over the petition of any other person interested, whether for exploration or registry, which bears a prior date of presentation and which requests all or part of the land necessary to increase the area of the mine granted in accordance with the said legislation.

The proceedings for extension which may be instituted at the present time in order to obtain the extension granted by the law of 1849, instead of that fixed by the royal decree of 1825, shall continue their course until concluded, it being permitted to survey the claims in accordance with said extension, unless that in the period of one month from the publication of the new law, the persons interested request that it be increased according to the provisions thereof and of these regulations, provided that there is free land. Petitions which may be made hereafter to increase the size of surveyed claims in accordance with the royal decree of 1825 and the law of April 11, 1849, may request only, if there should be any free land, the superficial area referred to in articles 13 and 14 of the law.

The proceedings in which greater extension for the claim or claims granted are asked for shall be called "proceedings for extension." Those which have for their object the uniting of one or more claims to those already granted shall be called "proceedings for increase of claims."

Proceedings which may be pending to obtain claims, either in accordance with the royal decree of 1825 or the law of 1849, shall continue their course according to the rules contained in the law and in these regulations as more speedy and beneficial to the parties even though the claims are not given a greater area than that proper according to the legislation from which they arise. After the approval of their proceedings by the governors and upon the issue of the titles of ownership according to Form No. 4, they must state that the sur-

vey of the mine has been made according to the law of 1849 or the royal decree of 1825, as the case may be.

It appertains also to the governors to take cognizance and decide proceedings which may be instituted with regard to surveys, superimpositions, and correction of claims, taking into consideration that when on account of the results of the same it should have been necessary to alter or correct the survey of any claims, the proper entries must be made in the original proceedings of the latter, the proper plans being attached to the same.

12. Appeals from the rulings and resolutions of the governors shall be filed with the latter, who shall attach the same to the respective proceedings and forward them to the department of the interior. Complaints may be made to said department only when the said authorities do not forward their appeals.

13. The material admission of any instrument or complaint of the persons interested can not be refused, no matter how illegal or improper it may be. The proper decision must be rendered on every claim.

A duly authenticated receipt for every instrument, petition, or notice shall be given when their nonpresentation might prejudice any of the persons interested.

14. In the sections of Fomento a book folioed and rubricated on all sheets by the chief shall be kept, in which the titles issued of any mining concession shall be recorded separately. Each of these records shall contain the name and location of the mine, character of the mineral, the number of claims of which it consists, with the total area, the name of the individual or association in whose favor the title has been issued, and the date of the latter.

During the month of January of every year the governors shall forward to the department a detailed report of all titles of mining concessions which they may have issued during the former year.

15. When on account of loss or for any other reason the persons interested should demand a new title, the governors shall never be permitted to give anything but a certificate containing a literal copy of the title which is the object of the request, for which purpose care shall be taken that in all proceedings when titles of ownership are issued the proper memorandum thereof remains attached to the same.

16. In mining, no rights shall be acquired if a strict observance and punctual fulfillment of the law and regulations is not observed. The periods fixed can not be extended for any reason whatsoever, and the faults of the administration shall not redound to the injury of the persons interested, provided that within the term of sixty days, counted from the date when the period for them expires, they should complain of negligence or carelessness in the office or nonfulfillment of the laws and regulations. Should they not make the objection within the period mentioned, it shall be understood that they desist

from their claims and that they abandon the continuation of the proceedings, which shall be considered canceled for all subsequent effects, this being declared by the administration as soon as it is verified and shall be published in the *Boletin* of the Province.

This declaration, when proper, may also be made at the instance of any other interested person, provided that he requests it by means of a petition of exploration or registry according to the provisions contained in the third paragraph of article 75 of these regulations.

The Government only may dispense the defects produced by the cancellation of mining proceedings when third persons will not be injured.

17. Any changes in these regulations shall conform to the provisions of article 45, first paragraph, of the organic law of the council of state.

FINAL PROVISION.

The regulations of February 25, 1863, and all subsequent provisions which are in contravention with these regulations, are hereby repealed.

TRANSITORY PROVISION.

All proceedings which, upon the publication of these regulations, are pending in the Department, provided they have not been forwarded to the same by reason of an appeal, from the rulings of the governors, shall be returned at once to the latter in order that they may be instituted and concluded in accordance with the amended law.

Proceedings which may have been returned by the Department and are in the possession of the governors of provinces for the correction of any kind of defects, shall also be continued and concluded in the same.

Madrid, January 24, 1868.

Approved by His Majesty. CATALIÑA.

FORMS.

FORM No. 1.

SOLICITUD PARA EXPLOTAR SUSTANCIAS DE NATURALEZA TERROSA.

D. N., vecino de ——— y habitante en esta ciudad, calle de ———, número ——— de profesión ———, y de edad de ———, á V. S. dice: que en el término del lugar de ———, al sitio ó pago que llaman ———, hay una tierra de la pertenencia de D. N., vecino de ———, la cual linda (*se expresarán los linderos á todos vientos con la posible especificación*). El exponente desea emplear 20,000 metros cuadrados de este terreno, á contar desde el punto ———, y en la figura de un cuadrado, ó como pareciere mejor en su día al ingeniero, para la fabricación de loza, dando á esta explotación el nombre de Locera: pero el citado dueño se opone á prestar su consentimiento, á pesar de haberle ofrecido todas las indemnizaciones y garantía convenientes al respecto de su derecho de propiedad. En esta atención, el que dice,

Suplica á V. S. que habiendo por presentado este escrito y la cantidad de 30 escudos que al mismo tiempo consigna, se sirva instruir el oportuno expediente en la forma que procede con arreglo á la ley y reglamento de minas, á fin de que se le conceda la conducente autorización para la explotación indicada.

Dios, etc.

(Fecha y firma.)

FORM No. 2.

SOLICITUD DE REGISTRO.

D. N., vecino de esta ciudad y habitante en la calle de ——, núm. ——, de profesión ——, y de edad de ——, á V. S. digo: que en el término realengo del lugar de ——, paraje que llaman ——, lindante —— (*se expresarán los linderos á todos rumbos, con toda especificación*), deseo adquirir —— pertenencias mineras con el título *La Esperanza*, de mineral ——, que ya se halla descubierto en una calicata. (*Si no estuviese descubierto el mineral, se omitirá esta circunstancia y podrá decirse en su lugar:*) de mineral que me propongo descubrir dentro del plazo legal. (*Si el terreno fuese de propiedad particular, se expresará el nombre del dueño, como también si el terreno es de los que según la ley exigen permiso del dueño para hacer labores. Del mismo modo se dirá si se ha hecho ó no calicata, y si en el primer caso se ha obtenido licencia del proprietario, acompañando el documento que lo acredite.*) Verifico la designación de este registro en la siguiente forma: se tendrá por punto de partida el sitio —— (*el que sea, marcada en lo posible la dirección y distancia en que se halla de cualquier otro punto indubitado y fijo*). Desde él se medirán en dirección N. —— metros, fijándose la primera estaca, desde ésta en dirección E. —— metros. (*Y así sucesivamente hasta que resulte formado el rectángulo de la pertenencia ó pertenencias solicitadas.*) Por lo tanto,

Suplico á V. S. que habiendo por presentada esta solicitud con la cantidad de 30 escudos que á la vez consigno, se sirva dar al expediente la instrucción de ley y reglamento, á fin de que en su día se expida el correspondiente título de propiedad.

Dios, etc. (Fecha y firma.)

NOTA.—Las solicitudes de investigación se arreglarán á este modelo con las variaciones que son consiguientes.

FORM No. 3.

Número ——. Folio ——.

D. N., vecino de ——, de profesión ——, y de —— edad, habitante en la calle de ——, número ——, ha presentado á —— hora —— y —— minutos de la mañana (ó tarde) del día —— del mes de ——, año de ——, solicitud de registro de —— pertenencias de la mina —— de mineral ——, sita en ——. (*Aquí se expresarán los linderos y demás circunstancias que contenga la solicitud, respecto á su situación, clase de terreno, nombre del dueño de él, y de existencia ó no de la calicata, etc.*)

Esta solicitud tiene la fecha de ——.

La designación que hace es la siguiente: (*Aquí se copiará la designación.*)

Ha consignado al mismo tiempo la cantidad de 30 escudos (*ó la que sea si se trata de coto minero*).

Vº. Bº.

El Gobernador.

El oficial. (Firma.)

El interesado. (Firma.)

(*Á continuación se irán anotando las principales diligencias que tenga el expediente.*)

NOTA.—Cuando en vez de registro de mina sea demasía, petición de escorial ó cualquiera otra de las solicitudes que deben comprenderse en el libro de registro, se expresará asi con toda especificación y claridad.

OTRA.—Cuando la solicitud se haga por apoderado ó sociedad, se anotará la presentación del poder y de la escritura social.

ADVERTENCIA.—En el libro de investigaciones se harán los asientos por el mismo órden, con las diferencias que son consiguientes.

LIBRO DE REGISTROS.

Número ——. Folio ——.

Gobierno civil de la provincia de ———. D. N., oficial ———.

Certifico: que por D., ———, vecino de ———, se ha presentado ———á ——— hora y ——— minutos de la mañana (ó tarde) del día ——— de ——— del año ——— una solicitud de registro fechada en ——— de ——— pertenencia de la mina ——— de mineral ———, sita en el término de——— (*aquí se expresarán los linderos*), haciendo la designación en la forma siguiente———. Ha consignado al propio tiempo la cantidad de ————.

Y para que conste y sirva de resguardo al citado D. ———, doy la presente certificación talonaria, con el Vº. Bº. del Sr. Gobernador, en ———, á ——— de ——— de ———.

Vº. Bº.

El Gobernador. (Firma.)

NOTA.—En la extensión de estas certificaciones se tendrán en cuenta las diferencias de casos, según se advierte en las notas del lado opuesto.

FORM No. 4.

TÍTULO DE PROPIEDAD.

D. N., Gobernador de la provincia de ———.

Por cuanto á ——— (*aquí el nombre del interesado*) tuve á bien otorgarle la concesión de ——— (*aquí el nombre y clase de la mina*), en término de ——— de esta provincia, he venido en resolver con fecha ——— que se le expida el presente título de propiedad, conforme á lo prescrito en la ley de minas de 6 de julio de 1859, reformada por la de 4 de marzo de 1868, de ——— pertenencia que componen ——— metros cuadrados de extensión, en la forma que se fija en el adjunto plano levantado por el Ingeniero D. ——— con arreglo á ——— (*aquí se expresará la ley con arreglo á la cual se haya demarcado*), fechado en ——— á ——— de ——— de ——— con la obligación de cumplir las condiciones generales siguientes:

1ª. La de beneficiar ——— conforme á las reglas del arte, sometiéndose él y sus trabajadores á las de policía que señalen los reglamentos.

2ª. La de responder de todos los daños y perjuicios que por ocasión de la explotación puedan sobrevenir á tercero.

3ª. La de resarcir también á sus vecinos los perjuicios que les ocasione por las aguas acumuladas en sus labores, si requerido no las achicase en el tiempo que se señale.

4ª. La de contribuir en razón del beneficio que reciba por el desagüe de las minas inmediatas, y por las galerías generales de desagüe ó de transporte, cuando con autorización competente se abran para un grupo de pertenencia ó para el de toda la comarca minera donde se halla situada la mina.

5ª. La de tener ——— poblada ó en actividad, á no impedirlo fuerza mayor, con

cuatro trabajadores, en razón de cada pertenencia, durante la mitad de cada año, debiendo empezar á contarse éste desde el acto de la toma de posesión.

6ª. La de fortificar la mina en el tiempo que se le señale, cuando por mala dirección de los trabajos amenace ruina, á no ser que lo impida fuerza mayor.

7ª. La de no dificultar é imposibilitar el ulterior aprovechamiento del mineral por una explotación codiciosa.

8ª. La de no suspender los trabajos de ——— con ánimo de abandonarla sin dar antes conocimiento al gobernador civil, y la de dejar su fortificación en buen estado.

9ª. La de no hacer trabajos, sin previa licencia, á menos de 40 metros de los edificios, caminos y cualquier servidumbre pública.

10. La de satisfacer por ——— y sus productos los impuestos que establece la ley.

Y 11. La de llenar, en fin, todas las prescripciones que se contienen en la ley y reglamento para las concesiones de la naturaleza de la presente.

(*Hueco de un decímetro para las condiciones especiales que pueda haber.*)

Por tanto, en virtud de este título, concedo en nombre del Gobierno de S. M. á ——— la propiedad de ——— por tiempo ilimitado, mientras cumpla con las condiciones precedentes, para que pueda hacer su explotación, aprovechar sus productos, y disponer libremente de ellos, enajenándolos según fuere su voluntad, con sujeción á las leyes, disfrutando al mismo tiempo de todos los derechos y beneficios que por la ley y reglamento de minas se otorgan á los concesionarios. Y para que lo contenido en las expresadas condiciones se cumpla y observe puntualmente, así por dicho concesionario, como por las autoridades, tribunales, corporaciones y particulares á quienes corresponda, expido el presente título de propiedad, que va sellado con el sello de este Gobierno de provincia.

Dado en ———

El Gobernador civil. (Firma.)

(Al dorso del título.)

Gobierno de provincia.

Registrado en la sección de fomento al folio ———, libro correspondiente.

El Jefe de la Sección. (Firma.)

FORM No. 5.

SOLICITUD DE GALERÍA GENERAL.

D. N., vecino de esta ciudad, habitante en la calle de ———, núm. ———, de profesión ———, y de edad ———, á V. S. digo: que deseo hacer las obras conducentes á la apertura de una galería general de investigación (*desagüe ó transporte*), que se nombrará ———, en el término de ———, al sitio de ———, terreno realengo, lindante ———, con arreglo en un todo á la memoria y plano que presento del Ingeniero D ———.

En esta atención y habiendo hecho los oportunos convenios particulares con D. ——— y D. ———, dueños de las minas ——— (*ó interesados en los registros* ———) que se hallan dentro del terreno que ha de comprender la citada galería, según consta de los adjuntos documentos.

Á V. S. suplico que, habiendo por presentada esta solicitud con los documentos que la acompañan, se sirva dar al expediente la tramitación de ley y reglamento, á fin de que se me conceda en su día la autorización que solicito para la apertura de dicha galería.

Dios, etc.

(Fecha y firma.)

NOTA.—Cuando el terreno fuese de propiedad particular, se expresará el nombre del dueño; y si fuese además de los en que se exige licencia del mismo, se

anotará esta circunstancia, con expresión de si la ha dado ó no para los efectos que en tal caso son conducentes en la tramitación.

Igualmente, cuando se reserven pertenencias, se expresarán y designarán las que sean, conforme á lo dispuesto en el artículo 60 del reglamento.

FORM No. 6.

PROVINCIA DE ———.

Sección de Fomento. Minas. Año de ———.

EXPEDIENTE DE ———.[1]

Número ——— (*el que le haya correspondido en el libro talonario*).
Para ———.[2] Nombrada ——— (*aquí el nombre*).
Del término de ———.

Interesado: Vecindad:[3]
D. ———. ———.

Representante: (*Punto de la ciudad en que viva:*)
D. ———. ———.

Número de pertenencias ———.

---

[1] Investigación, registro, ampliación, aumento de pertenencias, demasía, concentración de labores, reducción de pueble, etc.

[2] La mina, terrero, escorial, coto minero, etc., expresándose la clase del mineral.

[3] Cuando sea vecino de la misma capital y siga por sí el expediente, se expresará aquí la casa y calle en que habite.

GENERAL BASES FOR THE NEW MINING LEGISLATION.

GENERAL BASES FOR THE NEW MINING LEGISLATION.

CLASSIFICATION AND OWNERSHIP OF MINERAL SUBSTANCES.

ART. 1. The useful substances of the mineral kingdom, whatever may be their origin and the form in which found, whether on the surface or underneath the same, are the subject of this decree, and for their utilization they are divided into three sections.

ART. 2. In the first section are included mineral productions of a terreous nature, silicious stones, slates, arenacious, or sandstone, granites, basalts, limestones or earth, gypsum, sands, chalks, argillaceous earth, and, in general, all building materials which may be quarried.

ART. 3. In the second section are included placers, metalliferous sands or alluvia, the minerals of iron, bog iron ore, emery, ochers and almagras, scoriæ and metalliferous earth, the result of prior workings, turf moors, pyritous, aluminous, magnesian and Fuller's earth, saltpeter beds, phosphorites, baryta, fluor spar, steatite, kaolin, and clays.

ART. 4. In the third section are included deposits of metalliferous substances, anthracite, pit coal, lignite, asphaltum, and mineral tars, petroleum and mineral oils, graphite, saline substances, including alkaline and terreo-alkaline salts, whether in a solid state or dissolved in water; copperas, sulphur, and precious stones.

Subterranean waters must also be considered as belonging to this group.

ART. 5. In all lands which contain the substances mentioned in the two foregoing articles, or others similar thereto, for the purposes of this decree there shall always be considered two distinct parts:

1. The soil, which includes the surface, properly speaking, and furthermore the depth to which the work of its owner may have attained, whether in cultivation, for building, or the laying of foundations, or for any other purpose other than mining.

2. The subsoil, which extends indefinitely in depth from where the soil ceases.

ART. 6. The soil may be private property or of public ownership, and the owner never loses his right thereto nor to utilize it except in cases of condemnation. The subsoil is originally under the dominion of the State, and it may, according to the cases and with no restrictions but convenience, abandon the same to the public use, grant it

gratuitously to the owner of the soil, or alienate it by means of a surface tax to individuals or companies requesting it; but all this subject strictly to the provisions contained in the following articles.

ART. 7. The substances included in the first section are of public use when they are situated on lands of public ownership.

When they are situated on private lands, the State, confirming article 3 of the mining law in force, cedes said substances to the owner of the surface, who may consider them as his own property and utilize them in the manner and at the time he may deem proper without being subject to the formalities and charges of this decree.

These workings shall be subject to the administrative intervention only in what refers to the safety of the works, as may be determined in the regulations of inspection and mining police.

ART. 8. The substances included in the second section shall be subject, with regard to ownership and working, to the same conditions of the foregoing article. But when they are situated on private lands the State reserves the right to grant them to whomsoever may request their development if the owner should not work them himself, provided that the enterprise is declared of public utility and the owner be indemnified for the surface condemned and damage caused. As established in article 19, he who obtains a concession must pay every year a surface tax of 2 escudos per hectarea; but the owner shall not be required to pay this tax if he develops the land himself.

ART. 9. The substances mentioned in the third section may be worked only by virtue of a concession granted by the Government in accordance with the provisions of this decree.

The concession of the substances referred to in this article constitute a property separate from that of the soil. When one of the two is to be annulled and absorbed by the other, a declaration of public utility, condemnation, and the respective indemnity shall be proper.

EXPLORATIONS AND CLAIMS.

ART. 10. Any Spaniard or foreigner may, without restriction, dig trial pits or make excavations on land of public ownership, not to exceed 10 meters in length or depth, for the purpose of discovering minerals. Permission shall not be required for this purpose, but the local authority must be informed thereof.

In lands of private ownership no trial pits shall be dug without the previous permission of the owner or of his representative.

ART. 11. The claim or unit of measure for mining concessions, with regard to the substances of the second and third sections, is a solid with a square basis of 100 meters, measured horizontally in the direction which may be indicated by the petitioner, and of an indefinite depth for these substances. For the first, said depth stops where the workable material is exhausted.

ART. 12. Individuals may obtain any number of claims by one concession, provided that this number exceeds four. All the claims

which together form one concession must be grouped in such manner that their continuity be uninterrupted, so that those contiguous to each other abut for the entire length of any of their sides.

ART. 13. When there should be a free space between two or more concessions, the area of which is less than 4 hectareas, or which can not be easily divided into claims, it shall be granted to such of the owners of the adjoining mines who should first request it, and should they renounce it, to any individual applying therefor.

ART. 14. A mining claim can not be divided, in purchases, sales, exchanges, or other similar transactions of the owners of the mines.

CONCESSION, DEVELOPMENT, AND FORFEITURE OF MINES.

ART. 15. In order to obtain the ownership of four or more mining claims, whether of the second or of the third section, a petition shall be addressed to the governor clearly stating all the circumstances of the concession requested.

The governor, after the proper proceedings have been instituted, as may be prescribed in the regulations, and after the existence of free land has been shown, must in all cases, after the necessary publicity in order to hear the objections which may be made, order that the concession be surveyed, and shall grant the same within a period not to exceed four months, to be counted from the date of the presentation of the petition.

ART. 16. The priority in the presentation of a petition gives the preferred right; but if some of the substances of the second section are in question, the owner shall always be preferred, if he binds himself to work the same within a period which the administration may indicate and which shall not exceed thirty days.

ART. 17. The survey of the limits of each concession must be made after the conditions of article 15 have been complied with, even though there should be no mineral discovered nor any work done.

These surveys may include lands of all kinds, buildings, roads, works, etc., provided that the mining works are executed subject to the police and security regulations.

ART. 18. When it is desired to drive general galleries for explorations, drainage, or transportation, the claims necessary shall be petitioned for, provided there is free land, in the same manner as in other concessions; but if these works are to cross claims already granted, the constructor must previously come to an agreement with the respective owners and fix all the other conditions in case of the discovery of mineral.

If the owners of the claims should object to the driving of said galleries, the latter can not be constructed unless proceedings of public utility are instituted.

ART. 19. The concessions for the working of mineral substances are in perpetuity for a ground rent or surface tax per hectarea which shall be fixed in the following manner: Precious stones and deposits

of metalliferous substances, included in the third section, excepting iron, 10 pesetas. Iron, combustible substances, scoriæ, and metalliferous lands and other substances of the second and third sections, 4 pesetas. The tax must be paid from the date on which the concession is granted, and as long as the owner punctually pays said amount the administration can not deprive him of the ground granted, whatever may be the amount of the development.

ART. 20. If there should exist on the same land any of the substances mentioned in the second and third sections, and it is impossible to work both at the same time, they shall be granted to the first petitioner, whichever may be the one he desires.

If the latter should request permission to work the substances mentioned in the third section, he may extend his mining works to those of the second; but if the petition should refer to the latter after they are exhausted the person interested shall require a new concession for the working of any of those included in the third.

ART. 21. Miners may freely dispose, in the same manner as of any other property, of whatsoever rights may be granted them by this decree. Mineral products controlled by the treasury are excepted with regard to which the rules governing the matter shall be observed as long as the control continues.

ART. 22. Miners shall be free to develop their mines without subjection to technical prescriptions of any character whatsoever excepting the general police and safety regulations. In order to enforce the fulfillment of the latter, the administration shall exercise through its agents the proper surveillance.

ART. 23. Mining concessions shall only become forfeited when the owner does not pay for one year the proper surface tax and when upon judicial proceedings he should not pay it within fifteen days or should be insolvent.

In such case the concession shall be declared null and void, and the mine shall be offered at public auction; of the amount realized the administration shall retain the sum which was owed the same, the expenses incurred, and 5 per cent of the total; the rest shall be turned over to the first owner.

If there should be no bidders at three consecutive auctions, the land shall be declared free.

Until the owner of a mine informs the Government of its discontinuance or abandonment it shall continue subject to the charges and prescriptions of this decree and of the regulations for its execution.

RIGHTS AND DUTIES OF MINERS.

ART. 24. Every miner must facilitate the ventilation of the adjoining mines; he shall be subject to the easement of the course of waters from said mines toward the general drainage, and also to the police regulations which may be fixed in the special ones.

ART. 25. In order to drive galleries for explorations, transportation, or drainage, the rules indicated in article 18 shall be observed.

ART. 26. Every owner of mines shall indemnify according to private agreements or expert appraisals, subject to the common laws, the losses and damages which he may cause to other mines, either by the accumulation of waters in the workings, if upon request he should not drain them within the period of the regulations, or in any other manner whatsoever causing injury to the interests of others within or without the mines.

Among the damages caused there shall always be counted those corresponding to the time intervening until the drainage takes place; and furthermore the originator thereof shall deliver to the owner of the injured mine a portion of the profits obtained, should there be any, in the judgment of experts.

ART. 27. Miners are free to come to agreements with the owners of the surface with regard to the area which it may be necessary to occupy for stores, workshops, reduction works, deposit of scoriæ or rubbish, installation of machinery, entrances to mines, etc. If no agreement can be reached, either with regard to the area or with regard to the price, the owner of the mine shall request of the governor the application of the law relating to public utility.

In the reports of the engineer and of the deputation there shall be considered and passed upon in the proper manner, first, the necessity for condemnation; second, the advantages offered by one or the other, whether the development of the mines, or the cultivation or working of the soil, in order to in this manner clearly define which of the two interests are to be attended to.

In every case the proper indemnity shall be paid before the condemnation.

ART. 28. The miners are the owners of the waters they may find during their works. A special law shall fix the rules relating to the utilization of subterranean currents and the rights of individuals whose claims they cross.

ART. 29. Police regulations shall fix in detail the duties and rights of miners, as well as the powers of the administration, and most especially the precepts relating to public sanitation, to which all mines shall be subject.

GENERAL PROVISIONS.

ART. 30. The present owners of mines may choose between the law in force at present or this decree, provided that no denunciation of said mines is pending. From the day on which they agree to fulfill this decree and begin the payment of the proper surface tax they acquire the mine in perpetuity.

ART. 31. All those who have registry proceedings pending are included in the same case.

ART. 32. All prescriptions of present legislation contrary to the provisions of this decree are hereby repealed. The other provisions of the law, as well as of the regulations, shall continue in force, without prejudice to what may be decided at the proper time.

ART. 33. The Government shall submit a project of law to the Cortes.

Madrid, December 29, 1868.

MANUEL RUIZ ZORRILLA,
Secretary of the Interior.

APPENDIX.

APPENDIX.

ORDER OF THE 18TH OF MAY, 1869.

DEPARTMENT OF THE INTERIOR.

HONORABLE SIR: In view of the inquiries made of this department by the governors of Madrid and Almeria on the 2d and 8th of last April, in which they ask explanations as to the manner of applying the second paragraph of article 15 of the bases for the new mining legislation decreed by the provisional government on the 29th of last December, the executive power, in the exercise of its functions, has resolved that when the mining proceedings reach the point of survey and that the concession is granted according to what is established in the said bases the governors of provinces shall order the said survey made by the mining engineer, who shall perform the same in the manner which the petitioner may have designated, if there should be free land, or changing it with the consent of the persons interested in case that it can not be surveyed in the manner designated, or suspending the operation when denounceable land sufficient to make four mining claims at least does not exist, according to that which is provided for in article 12 of the mentioned bases.

May God preserve Your Excellency many years.

Madrid, May 18, 1869.

RUIZ ZORRILLA,
Director-General of Public Works, Agriculture, Industry, and Commerce.

ORDER OF MAY 9, 1870.

DEPARTMENT OF THE INTERIOR.

HONORABLE SIR: In view of the communication addressed to this department by the governor of Gerona, in which he inquires whether the petitions of concessioners for mining properties obtained according to laws prior to the bases for a new mining legislation decreed December 29, 1868, can be admitted, as well as those which request extension of the number of claims which they possess; whereas, according to articles 12 and 15 of the said bases, the concessioners of mines can obtain any number of claims, provided this number be not less than 4 hectares, in the manner prescribed in article 13 of said bases, and taking into account, furthermore, that in order to consider

the original concession and the extension asked for as a single concession, it is necessary that the persons interested should first choose their concessions according to the same bases, and that the administration accede thereto, when a denouncement is not pending, as determined in article 30 of the same; therefore, Her Majesty the Regent of the Kingdom has declared that all mining concessioners have the right to obtain the number of claims they desire as an extension to the original concession, providing that they first select their concessions according to the bases for the new mining legislation decreed on December 29, 1868, and the administration consent thereto, if said concessions have been granted in virtue of laws prior to the said bases. By order of Her Highness I communicate the same to Your Excellency for your information and other purposes.

May God protect Your Excellency for many years.

Madrid, May 9, 1870.

ECHEGARAY,
Director-General of Public Works, Agriculture, Industry, and Commerce.

ORDER OF NOVEMBER 30, 1870.

DEPARTMENT OF THE INTERIOR.

YOUR EXCELLENCY: In view of the inquiry addressed to this department by the governor of the province of Murcia, asking if to the petitions for surpluses should be attached a description or plan, as is required in ordinary petitions for registry exploration; and whereas

1. The concessions being mentioned between which it is desired to secure a surplus, there can not exist in the petition for the land the priority that it is proposed to evade in registries and explorations which are not found subordinated to the precise condition of being bounded by known active mines; and

2. That the mining engineer, in the examination which he must make subsequently in view of the plans of the adjacent concessions, must determine the area and form of the surplus with greater precision than the petitioner could do.

The opinion of the section of Government and Fomento of the council of state having been heard, and in accordance with its report His Highness the Regent of the Kingdom hereby orders that the plan of the free land petitioned for between various mines no longer be required with the petition.

By order of His Highness I communicate the same to Your Excellency for your information and other purposes.

May God protect Your Excellency many years.

Madrid, November 30, 1870.

ECHEGARAY,
Director-General of Public Works, Agriculture, Industry, and Commerce.

LAW OF JULY 24, 1871.

DEPARTMENT OF THE INTERIOR.

Don Amadeo I, by the grace of God and the national will King of Spain, to all who may see and understand these presents know ye, that the Cortes have decreed and we have sanctioned the following:

FIRST AND LAST ARTICLE.

Article 19 of the general bases for the new mining legislation shall be substituted by the following: (See the text of the law.)

Therefore,

We order all tribunals, justices, chiefs, governors, and other authorities, civil as well as military and ecclesiastical, of whatsoever class and rank, that they fulfill and enforce the observance, comply, and execute this law in all its parts.

Given at the palace on July 24, 1871.

AMADEO.
MANUEL RUIZ ZORILLA,
Secretary of the Interior.

ROYAL ORDER OF DECEMBER 18, 1871.

DEPARTMENT OF THE INTERIOR.

HONORABLE SIR: In view of the various communications from chief engineers of provinces making inquiries with regard to the propriety of increasing in certain cases the deposits that are made by the persons interested in mining concessions to answer for the expenses caused by the performance of their expert duties necessary in the course of the proceedings, taking into account the changes that the new mining legislation has introduced on this point.

And whereas:

1. The ample liberty which the law grants to miners to petition for the number of mining claims they desire establishes a considerable difference in the amount of work and expense which said operations may occasion in each proceeding; and

2. It being indispensable to harmonize with respect to the deposits for the course of the said proceedings the provisions of articles 42 and 73 of the mining regulations of June 24, 1868, His Majesty the King has deemed proper to order the adoption of the following provisions:

1. On presenting to the governors of the provinces the petitions for mining concessions the person interested must present also the proper receipt which proves that he has deposited the sum of 75 pesetas, as prescribed in article 73 of the said regulations, when the number of hectareas petitioned for does not exceed 12.

2. When more than 12 hectareas are requested there shall be deposited 4 pesetas more for each additional hectarea.

3. The governors of provinces may demand that they deposit also the additional sum necessary for the full payment of the expert work in extraordinary cases in which the estimated expenses are greater than the sums deposited, after a detailed estimate made by the engineer who is to do the work, with a report of the chief engineer and approval of the governor.

Which I communicate to Your Excellency by royal order for your information and consequent effects.

May God guard you many years.

Madrid, December 18, 1871.

MONTEJO Y ROBLEDO.

To the Director-General of Statistics, Agriculture, Industry, and Commerce.

ROYAL ORDER OF SEPTEMBER 18, 1872.

DEPARTMENT OF THE INTERIOR.

The honorable secretary of the interior reports to me on this date the following:

"HONORED SIR: In view of the inquiry made of this department by the superior technical mining board with reference to the propriety of modifying the royal order of December 18, 1871, relating to the deposit for registries of mines; in view of the first of the provisions of the said royal order, in which there is imposed on the miner the unavoidable obligation of presenting with the petition for registry the receipt which proves that there has been deposited in the treasury the amount fixed in article 73 of the regulations;

"Whereas since the law of 1825 until the bases which are now in force the starting point of the right to the ownership of a mining concession is the moment of the presentation of the petition for registry, because the priority of the presentation of the petition gives the preferred right;

"Whereas from the moment in which are instituted proceedings or steps prior to the presentation of the petition there is the possibility that this presentation may suffer a delay independent of the will of the miner, which would cause the loss of his rights;

"Whereas the amount that is ordered to be deposited in the treasury, and the receipt for which must be presented at the same time as the petition for registry, has no other object than to cover the official expenses arising from the examination of the land and the survey of the concession by the engineer, operations rarely accomplished before the two months granted for this work have passed, it is immaterial, therefore, whether said deposit be made subsequently to the registry, providing that it be made before the examination and survey, while

on the other hand it is of the utmost importance that nothing shall delay the entry in the book of the registry of the memorandum stating the day and hour of the presentation of the petition, the basis of the right of mining concessions;

"Whereas the retention by the miners in their own possession of the receipts which prove that they have deposited the amounts prescribed in the royal order of the 18th of December last may give rise to involuntary delays on the part of the interested persons in the presentation of the said document to the treasuries when these offices receive the accounts, approved by the governors, of the salaries and traveling expenses occasioned by the examination and survey of the mines, giving rise to delay in their payment, to the corresponding prejudice to the engineers, which is something that the administration by all means should avoid. His Majesty the King (whom God preserve) has ordered that the following provisions be adopted:

"1. On filing in the offices of the governors of the provinces the petitions for mining concessions, they shall be entered in the book of registry, in the presence of the persons interested, who shall be given the proper receipt, according to the provisions of article 22 of the amended law of 1868, even though the persons interested do not attach thereto the receipt which proves they have deposited the amounts fixed in the royal order of the 18th of December last.

"2. The admission of these registries shall be conditional until the presentation of the receipt, which must be delivered within the ten working days following that of the presentation of the petition, with which requisite the admission shall be definite, this being stated in the receipt mentioned in the foregoing provision.

"3. If the ten working days should elapse after the conditional admission of the petition for registry without presenting the receipt, the registry becomes null and void.

"4. The receipts when presented shall be attached to the corresponding proceedings, there being given to the persons interested the proper receipt, and separating them from the former at the proper time in order to attach them to the accounts presented by the engineers, so that the latter shall suffer no delay, under the strictest liability of the chief of the mining bureau."

I communicate the same to you for your information and other purposes.

May God preserve you many years.

Madrid, September 18, 1872.

JOSÉ MARIA FONTANALS,
Director-General.

ROYAL ORDER OF MARCH 14, 1877.

DEPARTMENT OF THE INTERIOR.

YOUR EXCELLENCY: With the object of avoiding any doubt as to the meaning and application of what is established in the decree law of December 29, 1868, fixing the bases for the new mining legislation, His Majesty the King (whom God preserve), in accordance with the resolution of the section of the interior of the council of state, declares that any free space situated between two or more mines which does not have the legal dimensions to constitute a mining claim, or that can not be divided into claims in the manner prescribed, neither being susceptible of forming part of another concession with free land apart from the former, being completely surrounded or not, must be granted as a surplus to such of the owners of the adjoining mines who first should ask for the same, and, should the latter renounce it, to any individual that asks for it.

Which I communicate to you by royal order for your knowledge and other purposes.

May God protect you many years.

Madrid, March 14, 1877. C. TORENO.

To the Director-General of Agriculture, Industry, and Commerce.

ROYAL ORDER OF MAY 6, 1881.

DEPARTMENT OF THE INTERIOR.

YOUR EXCELLENCY: As there exist in some provinces free spaces of land which can not be the object of a mining concession on account of not having the conditions that are established in article 12 of the decree bases of December 29, 1868, nor can they be awarded as surpluses, not being included among those mentioned in article 13 of the same decree, such lands being inclosed between two or more concessions and the dividing line of the province in which they are situated and the boundary line, and therefore can not be explored, to the great prejudice of industry and commerce, because they might possibly contain within their limits mineral substances of real importance, His Majesty the King (whom God preserve), desiring that such prejudices should disappear, and taking into account that the mining legislation in force has for its principal object the development of this branch of the national industry, has resolved, in harmony with the report of the superior technical mining board and what is recommended by that general direction, that the dividing line of two adjoining provinces shall be considered as a mining concession for the purposes of the said article 13 of the decree bases.

Which I communicate to you by royal order for your information.

May God protect you many years.

Madrid, May 6, 1881. ALBAREDA.

To the Director-General of Public Works.

The colonial department, under date of July 21 last past, and under No. 994, communicates to his excellency the Governor-General the following order:

"YOUR EXCELLENCY: In view of the inquiry addressed by Your Excellency to this department with reference to the manner in which the title of ownership of the mine called Victoria should be issued, and which is situated in the jurisdiction of Cienfuegos, Province of Santa Clara, and which, denounced by Messrs. Vega & Mallo as an iron mine, it appears from the technical examination that it contains very little of said substance, it being, however, workable as a copper mine, as it was formerly under the same name:

"Whereas the law of the 17th of April, 1883, is in force in this island as well as the regulations of the 3d of April, 1884, which grant to iron mines certain privileges which mines of other substances do not enjoy, it is necessary to make some provision to prevent mines being called iron mines when in reality they are not such, His Majesty the King (whom God preserve), according to the report of the superior technical mining board, has ordered to be observed as a rule in the case of the Victoria mine, and in other similar cases which may arise hereafter, that in the titles of ownership it shall be stated that the concession made for an iron mine does not authorize the utilization of any other class of minerals subject to the payment of the surface tax and to the tax on the output, and on finding mineral subject to these imposts they may be worked only after obtaining special authorization for such purpose, which must be entered in the shape of a memorandum in the title of ownership, the offices of the treasury being informed thereof for the collection of the proper taxes."

Which I communicate to your excellency by royal order for the purposes indicated.

And His Excellency the Governor-General having ordered its execution under date of the 17th of the current month, by his order it is published in the *Gaceta Oficial* for general information.

Habana, August 26, 1885.

H. R. DE REGUENGA,
Secretary of the Governor-General.

(*Gaceta* of August 30, 1885. Habana.)

The colonial department, under date of June 30 last, and under No. 742, communicates to His Excellency the Governor-General the following royal order:

"YOUR EXCELLENCY: His Majesty the King (whom God preserve), and in his name the Queen Regent of the Kingdom, has issued on this date the following decree:

"'Don Alfonso XIII, by the grace of God and the constitution King of Spain, and in his name, during his minority, the Queen Regent

of the Kingdom, to all who may see and understand these presents:

"'Know ye that the Cortes have decreed and we have sanctioned the following:

"'FIRST AND LAST ARTICLE.

"'Beginning with the next fiscal year, the privileges referring to minerals of iron of the law of April 17, 1883, shall be extended to minerals of manganese, zinc, and lead. Therefore we order all courts, judges, chiefs, governors, and other authorities, civil as well as military and ecclesiastical, of whatsoever class and dignity, that they observe and enforce the observance, fulfill and execute the present law in all its parts.

"'Given at the Palace on June 30, 1887. I, the Queen Regent.

"'VICTOR BALAGUER, *Colonial Secretary.*'

"Which by royal order I communicate to Your Excellency for its fulfillment."

And His Excellency having ordered its fulfillment under date of the 28th of the month last past, by his order it is published in the *Gaceta* for general information.

Habana, August 2, 1887. JOSÉ PUJALS.

(*Gaceta* of August 6, 1887.)

We hereby certify that the foregoing translation is correct.

(Signed) FRANK L. JOANNINI,
Official translator,
Division of Customs and Insular Affairs, War Department.
(Signed) M. E. BEALL, *Assistant.*

I hereby certify that Frank L. Joannini is the official translator of the Division of Customs and Insular Affairs of the War Department.

(Signed) CLARENCE E. EDWARDS,
Lieutenant Colonel, Forty-seventh Infantry, U. S. V.,
Chief of Division.

INDEX.

[Numbers refer to articles.]

Abandoned mines, may be the object of a new award: Law, 65 and 68; regulations, 79.
Abandoned trial pits, how protected: Law, 62.
Abandonment of mines. (*See* Forfeiture.)
trial pits: Law, 62.
a registry or exploration: Law, 62. (*See* Claims.)
Administrative notifications: Law, 31, 92; regulations, 40, 59; general provision law, 5; general provision regulations, 2.
Agents or attorneys to act in mining proceedings: Law, 92; regulations, 40.
Agriculture. (*See* Indemnities.)
Alienation of forfeited concessions. (*See* Auctions.)
Anthracite coal: Area of claims; law, 13. (*See* Combustibles.)
Appeals in mining matters are as a rule administrative to the Government: Law, 86, 87, 88; general provision, regulations, 11.
when to enter: Law, 88.
when ordinary courts take cognizance of: Law, 94, 95.
Asphaltum, area of claims: Law, 13; bases, 4, 9.
Auriferous and stanniferous sands, are of free utilization or not: Law, 6, 13; regulations, 9; Bases, 3, 8.
Authority in mining. (*See* Jurisdiction.)
Benefits, communal, granted to miners: Law, 60.
Bituminous clay, area of claims: Law, 13.
Brick, fire, utilization of substances for their manufacture: Law, 4; regulations, 3.
Building materials are of private ownership: Law, 3.
Buildings, minimum distance from trial pits: Law, 12; regulations, 18, 19.
Calcareous phosphates, when they are the special object of mining: Law, 1.
substances: Law, 3.
Canals. (*See* Roads.)
Certificates of proceedings may be issued only by governors: Bases, general provision, 5.
Chalk. (*See* Terreous substances.)
Clay, bituminous, area of claims: Law, 13.
Clayey lands: Law, 3; bases, 2, 7.
Coal, anthracite, area of claims: Law, 13.
Combustible substances owned by State: Law, 1.
Combustibles, substances: Law, 1.
for reduction works: Law, 73.
Competency, administrative and judicial in mining matters. (*See* Jurisdiction.)
Communal benefits, granted to miners: Law, 60.
Condemnation: Bases, 8, 9.
Crockery or porcelain, crystal or glass, utilization of substances for their manufacture: Law, 4; regulations, 3.

Crystal or glass, utilization of products for their manufacture: Law, 4; regulations, 3.
Cultivated lands, etc.: Law, 9; regulations 14, 16. (*See* Trial pits, Claims, Ownership.)
Damages and losses in mines: Law, 55; bases, 26. (*See* Indemnities.)
Distance of buildings from trial pits: Law, 12; regulations, 18, 19.
Domain, eminent. (*See* Condemnation.)
Drainage of mines: Law, 55.
Dumps, development of: Law, 5; regulations, 8.
Dumps and scoriæ: Law, 45–48, 59; regulations, 64, 65.
Easements of mining claims: Law, 44, 55.
Eminent domain. (*See* Condemnation.)
Engineers of mines intrusted with the technical direction, etc.: Law, 96.
must conform strictly to the laws and regulations, etc.: Regulations, 53, 55, 89.
Explorations of lands; when works of more importance than trial pits are to be made permission of the governor is necessary: Law, 21. (*See* Trial pits.)
Explorations, one petition can include the area for two claims only: Law, 17; bases, 10–14.
is one of the means to acquire ownership of claims: Law, 20.
petitions, plans, etc.: Law, 21–28; regulations, 28.
(*See* Forfeiture, Galleries, Claims, Registries.)
Explorations and registries, stub books of: Law, 22; regulations, 32.
Ferruginous lands: Law, 3, 7; bases, 3, 8.
Fire-brick works, how they secure material: Law, 4.
Fluor spar: Law, 1.
Forfeiture of mining claims: Takes place by nonfulfillment of conditions, bad management, insolvency, abandonment, renunciation: Law, 65–70, 88; regulations, 73, 77–79.
mines: Bases, 23.
proceedings, cases in which it occurs: Law, 64, 67; regulations, 75 et seq.
authorizations to develop terreous substances: Law, 5; regulations, 8.
petitions for forfeited mines: Law, 68; regulations, 79.
Forfeited concessions, alienation of. (*See* Auctions.)
Fortifications, minimum distance of trial pits: Law, 12; regulations, 18, 19.
Galleries, general, for explorations, drainage, and transportation: Law, 40–44; regulations, 58–63; bases, 18, 25.
Gardens, orchards, and irrigated lands, their owner only can grant permission for trial pits, etc.: Law, 10; regulations, 14, 16.
the governor and secretary of fomento may grant it to continue workings: Law, 20.
General galleries for explorations, drainage, and transportation: Law, 40–44; regulations, 58–63; bases, 18, 25.
General mining conditions: Law, 49–65; regulations, 66–74.
Glass or crystal, utilization of products for their manufacture: Law, 4; regulations, 3.
Glass works, how they secure substances necessary for their works: Law, 4.
Gold. (*See* Auriferous sands.)
Governors: Law, 20, 21 et seq., 29, 30, 31, 36, 37, 38 et seq.
Government grants mining permits: Law, 2.
Groups of mining claims: Law, 16; regulations, 23, 42, 73.
mines. (*See* Mining groups.)

Heavy spar: Law, 1.
Intentional offender; when a miner is considered an: Law, 55.
Iron (mines of): Law, 1 and 13; bases, 4, 9.
Jurisdiction in mining: Law, 85-95; regulations, 83-88.
administrative: Law 68, 88-95; regulations, 83-88.
Lands, surplus: Law 14, 15; regulations, 20, 21, 22.
Losses and damages in mines: Law, 55; bases, 26. (*See* Indemnities.)
Magnesian lands: Law 3; bases, 3, 8.
Memoranda of surveys: Regulations, 50 and 53.
Mineral coals. (*See* Invoices.)
products. (*See* Substances.)
reduction works, charges and duties of the reducers: Law, 71; regulations, 80.
proceedings of condemnation to establish: Law, 72; bases, 26, 27.
concession of waters and combustibles for: Law, 73, 74.
substances which are the special object of mining: Law, 1; regulations, 1; bases, 1-9.
Mines of the State, which are such, the Government can not alienate them, etc: Law, 75-79.
abandoned may be objects of new awards: Law, 65, 68; regulations, 79.
Mining claims, what is an ordinary, according to class of minerals: Law, 13; bases, 11, 12-14.
incomplete: Law, 14; bases, 13.
surplus of: Law, 15; regulations, 20-22; bases, 13.
number of, which can be obtained by grant or purchase, etc.: Law, 16-19; regulations, 20-26; bases, 12-15.
may be alienated, etc.: Law, 19, 57; bases, 21.
concessions of, are for an indefinite period: Law, 39.
perpetuity of concessions: Bases, 19.
abandoned, revert to their owners: Law, 70.
petition for, or manner of obtaining their ownership: Law, 20-28; regulations, 27-42.
petition for mines previously worked or forfeited: Law, 68; regulations, 79.
annual surface tax on concessions: Law, 80; bases, 19.
(*See* Surface tax.)
concessions: Law, 29-39; regulations, 43-57; bases, 15-26. (*See* Drainage; Surplus lands.)
groups: Law, 16; regulations, 23, 42, 73.
jurisdiction: Law, 85-95; regulations, 83-88.
objects of: Law, 1-7; regulations, 1-10; bases, 1-9.
properties. (*See* Claims.)
registers. (*See* Stub books.)
surveys, their requisites, etc.: Law, 29-39; regulations, 43-57; bases, 17.
taxes: Law, 80-85; bases, 16.
works, must be properly performed, when and what works are required by law: Law, 28, 49 et seq.; regulations, 36, 40, 66-70.
Mixed substances: Regulations, 2; bases, 20.
Name, must be given to a mine, etc., desired: Regulations, 33.
Objects of mining: Law, 1-7; regulations, 1-10; bases, 1-9.
Ochers and red ochers: Law, 7.
Offenders, intentional, when miner is so considered: Law, 55.
Ordinary courts, mining questions in which they are competent: Law, 94; regutions, 87.

Owner of land has the preference in use of mineral substances: Law, 4.
subsoil and of mines is the State: Law, 2; bases, 6.
Ownership of substances the objects of mining vested in State: Law, 2.
Pasture lands, requisites to dig trial pits on, etc.: Law, 9; regulations, 14, 16.
Permissions for exploration: Law, 17, 25–28, 61 and last paragraph of 65; regulations, 36.
Petitions for explorations or registry: Law, 20, 21–27; regulations, 27, 28, 29 et seq., 42, 58, 73, 74, 75.
receipt for, to the persons interested, general provision: Regulations, 12.
for claims. (*See* Claims.)
Plans of lands requested for exploration and registry: Law, 21; regulations, 28.
Police supervision of mineral substances: Law, 3.
Porcelain works, how they secure minerals necessary: Law, 4.
Possession of claims: Law, 38.
Pottery works can appropriate by due process the mineral necessary for its operations: Law, 4.
Precious stone are the special object of mining, and when: Law, 1; regulations, 1; bases, 4.
Priority of right to mines: Law, 20; regulations, 15, 27; bases, 16.
Proceedings, certificate of, issued by governors: Bases, general provisions, 5.
Proceedings relating to mines:
Petitions for claims: Law, 20–28.
the registry of abandoned mines: Law, 68.
to develop mineral products of a terreous nature: Law, 3–5; regulations, 3–8.
for condemnation for reduction works: Law, 72.
Concessions of waterfa ls and combustibles for reduction works: Law, 73.
Formalities in and order of mining proceedings: Law, 23–26; regulations, 38, and provisions 6–8 of the same.
Mining proceedings are purely administrative: Law, 68.
Proper performance of mining works: Law, 28, 49 et seq.; regulations, 35, 40, 66, 70.
Properties, mining. (*See* Claims.)
Property of mines is originally vested in the State: Law, 2; bases, 1, 4, 9.
substances of a terreous nature, etc., can not be worked without the permission of the owner of the land, etc.: Law, 4; bases, 7 and 8.
the latter is preferred in a proper case: Law, 4; regulations, 4; bases, 8.
exception in favor of pottery works, etc.: Law, 4.
indemnities to the owners of the lands: Law, 5, 11, 55, 56, and 70; regulations, 5, 6, 7, 16, 17, 27; bases, 8.
Public sales. (*See* Auctions.)
Reduction works, waterfalls for: Law, 73.
Registry of mines is one of the means to obtain ownership of claims: Law, 20.
petitions for: Law, 20–24, 61.
work to be done by register, etc.: Law, 28.
may be converted into explorations: Law, 28, 34.
Renunciation of mines, obligations of the owner: Law, 62.
Repeal, general, of all prior laws, instructions and regulations relating to mines: Law, final provision; bases, 32.
Requisites for mining surveys: Law, 29–39; regulations, 43–57; bases, 17.
Rights with regard to mining, their acquisition and alienation: Law, 19, 37; regulations, 13; bases, 12–29.
Roads, minimum distance from trial pits: Law, 12; regulations, 18, 19.

Roads for the service of mines: Law, 56.
Sales, public. (*See* Auctions.)
Salt mines which are reserved to the State: Law, 75.
Sand, clay, chalk etc., are of private ownership: Law, 3.
(*See* Terreous substances.)
Scoriæ. (*See* Dumps and scoriæ.)
Silicious and calcareous mineral products, sands, clay, chalk, etc., are of private ownership: Law, 3.
stones, etc., slate, chalk. (*See* Terreous substances.)
Soil and subsoil defined, ownership, etc.: Bases, 5, 6.
Stanniferous and auriferous sands: Law, 6, 13; regulations, 9; bases, 4, 9.
State mines, which are: Law, 75, 79.
the owner of calcareous phosphates, heavy spar, fluorspar, and precious stones: Law, 2.
is the owner of the subsoil and of the mines: Law, 2; bases, 6.
Stub books of explorations and registries: Law, 22; regulations, 32.
Surface tax paid by mining claims: Law, 80; bases, 19.
Surplus lands: Law, 14, 15; regulations, 20, 21, 22.
Taxes, mining: Law, 80–85; bases, 16.
Terms or periods, how counted, etc: Law and general provisions, 5; regulations, 1, 13.
Terreous substances which are not the special object of mining: Law, 3, 4, 5; regulations, 3–8; bases, 2, 7.
Trial pits, definition, who may dig same, on what land, with what formalities, their depth, etc.: Law, 8–12, 77; regulations, 11–19; bases, 10.
obligations of persons abandoning: Law, 62.
Vineyards, requisites to make trial pits therein, etc.: Law, 9; regulations, 14, 16.
Waters, utilization of, found in mines: Law, 59; bases, 28.
passage or drainage of, and damage caused, etc.: Law, 55.
damages to, for public supply: Law, 59.
subterranean: Bases, 4, 5.
Waterfalls for reduction works: Law, 73.
Water troughs and other public easements, minimum distance from trial pits: Law, 12; regulations, 18, 19, 27.
Wells, obligation to fill those in claims and mines which are abandoned: Law, 62.
minimum distance from trial pits: Law, 12; regulations, 18, 19.
Workmen. (*See* Mining works.)
Utilizations, communal, granted to miners: Law, 60.

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